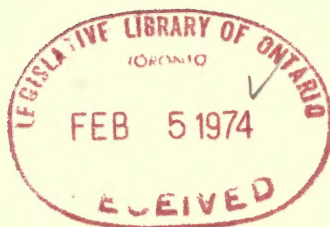


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FIRST SESSION, TWENTY-NINTH PARLIAMENT

LEGISLATIVE ASSEMBLY OF ONTARIO

FIRST AND SECOND SESSIONS OF THE
TWENTY-NINTH PARLIAMENT

BILLS

AS INTRODUCED IN THE HOUSE
TOGETHER WITH
REPRINTS AND THIRD READINGS

136171

SESSIONS

DECEMBER 13th to DECEMBER 17th, 1971

AND

FEBRUARY 29th to DECEMBER 15th, 1972

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2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act respecting Municipal Elections

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

EXPLANATORY NOTE

The Bill consolidates and includes substantially all the provisions and procedures for the conduct of municipal, school board and other local board elections and for voting on by-laws and questions which heretofore have been provided in *The Municipal Act*, *The Voters' Lists Act*, *The Municipal Franchise Extension Act* and in other Acts.

The preliminary list of electors is to be based on information obtained by way of the annual enumeration now to be carried out by the assessment commissioner during the five weeks immediately following Labour Day.

Similar provisions for revision of the list of electors as now exist have been made and the clerk is the revising officer.

Provision is also made for,

- (a) the broadening of the municipal franchise to include all qualified residents of a municipality;
- (b) conformity, as far as possible, of election procedures with those for provincial elections;
- (c) the harmonizing of all local government elections, including elections for school boards; polling day for all such purposes being the first Monday in December of an election year;
- (d) a uniform two-year term of office for municipal councils, school boards and other local boards;
- (e) mandatory advance polls to be held the Monday and Saturday, seven and two days respectively, prior to polling day at all elections;
- (f) the conduct of by-elections where such elections are required;
- (g) proxy voting by disabled persons and by students, otherwise qualified to vote, attending educational institutions;
- (h) a new procedure for the filing of nominations.

An Act respecting Municipal Elections

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

1. "advance poll" means a poll held under section 62;
2. "assessment commissioner" in relation to a municipality means the assessment commissioner appointed under *The Assessment Act* for the assessment region in which the municipality is situate; R.S.O. 1970,
c. 32
3. "assistant returning officer" means a person appointed by the clerk to assist him in the conduct of the election;
4. "assistant revising officer" means a person appointed by the clerk to assist him in the revision of the list of electors;
5. "candidate" means a person who is nominated for election to office in accordance with this Act and whose nomination is certified by the clerk;
6. "clerk" with respect to a municipality means the clerk of the municipality;
7. "constable" means a constable or a person appointed as a constable by the clerk or the deputy returning officer to maintain peace and order at an election;
8. "corrupt practice" means any act or omission in connection with an election in respect of which an offence is provided under the *Criminal Code* (Canada) or which is a corrupt practice under this Act; R.S.C. 1970,
c. C-34
9. "deputy returning officer" means a deputy returning officer appointed for a polling place under this Act.

10. "election" means an election governed by this Act;
11. "election assistant" means a person appointed by the clerk to assist in the conduct of an election;
12. "election year" means a year in which a regular election is held in accordance with the provisions of this Act;
13. "elector" means a person entitled under this Act to vote in an election;
14. "enumerated" means enumerated under *The Assessment Act*;
15. "local board" means a local board as defined in *The Municipal Affairs Act*;
16. "Minister" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs;
17. "municipality" means a city, town, village or township;
18. "new election" means an election other than a regular election;
19. "nomination day" means the last day for filing nominations;
20. "oath" includes an affirmation;
21. "office" means an office, the election to which is governed by this Act;
22. "owner or tenant" means a person enumerated as owner or tenant of land separately assessed or liable to be separately assessed under *The Assessment Act*;
23. "polling day" means the day on which the poll is to be taken under this Act;
24. "polling list" means the list of electors for each polling subdivision revised and certified by the clerk with a certified copy of the statement of changes and additions attached thereto;
25. "polling subdivision" means a polling subdivision established by the clerk under this Act;

R.S.O. 1970,
c. 118

R.S.O. 1970,
c. 32

26. "preliminary list" means a preliminary list of electors;
27. "prescribed" means prescribed by the Minister;
28. "public school elector" means a person enumerated who is not a separate school elector;
29. "quorum" means a majority of the members of council or of a local board or the trustees of a police village, as the case may be;
30. "regular election" means an election required to be held biennially under section 10 of this Act;
31. "residence", and similar expressions used in relation to a person, means his true, fixed, permanent home or lodging place to which whenever he is absent he has the intention of returning, subject to the following rules:
 - (a) The place where a person's family resides shall be his residence unless he takes up or continues his residence at some other place with the intention of remaining there, in which case he shall be deemed to be a resident of such other place.
 - (b) The place where a single person occupies a room or part of a room as a regular lodger or to which he habitually returns not having any other permanent lodging place, shall be deemed to be his residence;
32. "scrutineer" means any person appointed as a scrutineer by a candidate under section 6 or by a council under section 7;
33. "separate school elector" means a person who is a Roman Catholic separate school supporter or who is a Roman Catholic and the wife or husband of such supporter and who is enumerated as a separate school elector.

APPLICATION OF ACT

2. Notwithstanding any other general or special Act, this ^{Application} Act applies to and governs all elections, _{of Act}

- (a) to the offices of,

- (i) member of the council of a municipality,
 - (ii) member of the council of a regional municipality where such office is required to be filled by a vote of the electors of an area municipality,
 - (iii) trustee of a police village,
 - (iv) member of a local board whose members are to be elected at elections required by law to be conducted by the same officers and in the same manner as elections of members of the council of a municipality;
- (b) to obtain the assent of electors on any by-law required or authorized by law to be submitted for their assent at an election; and
- (c) to obtain the opinion of the electors on any question required or authorized by law to be submitted to the electors at an election.

ELECTION OFFICIALS

Returning
and
revising
officer

3.—(1) Subject to subsections 2 and 3, the clerk of a municipality is the returning officer and revising officer for the purpose of the conduct of elections within the municipality or a part thereof.

Returning
officer in
police
village

(2) For the purpose of elections of trustees of a police village, the clerk of the municipality in which the police village is located shall be the returning officer for the election and where the police village is located in two or more municipalities,

- (a) the nominations for trustees shall be filed with the clerk of the municipality having the largest number of electors of the police village;
- (b) the clerk of each other municipality in which part of the police village is located shall be the returning officer for the vote to be recorded in his municipality and he shall forthwith report the vote recorded to the returning officer referred to in clause *a* who shall prepare the final summary and announce the vote.

Clerks,
duties in
relation to
school
boards

(3) The clerks of municipalities to which subsections 21, 25 and 26 of section 38 of *The Secondary Schools and Boards of Education Act* and subsections 19 and 20 of section 90 of

The Separate Schools Act apply shall perform the duties as R.S.O. 1970, cc.425, 430 returning officers for the purposes of an election under this Act as are specified in those provisions.

4.—(1) The clerk of every municipality shall for the purposes of an election appoint a deputy returning officer and a poll clerk for each polling place established in the municipality and, as far as is practicable, the deputy returning officers and poll clerks shall be appointed for polling places for the polling subdivisions in which they reside. D.R.O. and poll clerk

(2) If a deputy returning officer or poll clerk signifies to the clerk that he will not act, the clerk shall appoint another person to act in his place. Where unable to act

(3) If a deputy returning officer or poll clerk does not attend at the opening of the poll, the clerk shall appoint another person to act in his place. Non-attendance of D.R.O., poll clerk

(4) If a deputy returning officer through illness or for any other reason becomes unable to perform his duties on polling day, the poll clerk shall perform his duties and exercise all his powers. Poll clerk to act for D.R.O.

(5) The clerk may appoint election assistants, assistant returning officers, and assistant revising officers to assist him in the performance of his duties and provide for such clerical and other assistance as is necessary for such purpose. Assistants

(6) The poll clerk and an election assistant, if any, shall assist the deputy returning officer in the performance of the duties of his office and shall obey his orders. Duties of poll clerk

(7) Every deputy returning officer, poll clerk, election assistant, assistant returning officer, assistant revising officer and constable shall, before entering upon his duties, take and subscribe an oath in the prescribed form. Oath

(8) The appointment and oath of the deputy returning officer shall be endorsed upon or attached to the poll book for the polling place for which he is appointed. Oath of D.R.O.

5.—(1) Except where otherwise provided, an oath may be administered by any person authorized by law to administer oaths in the Province of Ontario. Who may administer oaths

(2) The clerk may administer any oath required by this Act, and deputy returning officers and poll clerks may administer any such oath except an oath to be taken by the clerk. Idem

No charge

(3) Every person administering an oath under or for the purposes of this Act shall administer the oath gratuitously.

Scrutineers
appointed by
candidate

6.—(1) Each candidate may appoint such number of persons who are at least sixteen years of age as he considers advisable as scrutineers to represent him at the revision of the preliminary list of electors, in a polling place and at the counting of votes under this Act.

Limit on
number
present

(2) Not more than one scrutineer representing each candidate may be present for any of the purposes specified in subsection 1 at any time.

Scrutineers
appointed
by council

7.—(1) The council of a municipality may, if requested to do so, by resolution appoint as scrutineers in relation to voting on any by-law or question submitted to the electors at an election two persons to attend at the final summing up of the votes by the clerk and two persons to attend at each polling place, one such person in each case on behalf of the persons interested in and desirous of promoting the proposed by-law or voting in the affirmative on the question and the other such person on behalf of the persons interested in and desirous of opposing the proposed by-law or voting in the negative on the question.

Production of
appointment

(2) A person appointed as a scrutineer under this section before being admitted to a polling place shall, if so requested, produce and show his appointment to the deputy returning officer for the polling place.

COSTS OF ELECTION

Cost of
election

8.—(1) Except where otherwise specifically provided by this or any other special or general Act, the cost of an election shall be borne by the municipality in which it is held.

Expenses
of officers

(2) The reasonable expenses incurred by a clerk or any other officer for printing, providing ballot boxes, ballot papers, materials for marking ballot paper, and balloting compartments, and for the transmission of packets, and reasonable fees and for allowances for services rendered under this Act or otherwise on account of an election shall be paid to the clerk by the treasurer of the municipality and shall be paid by the clerk to the persons entitled thereto.

Expenses of
by-election
of local
board

(3) Where the clerk of a municipality is required to conduct an election of members of a local board other than at a regular election, the board shall forthwith after its organization reimburse the treasurer of the municipality for the reasonable expenses incurred by the clerk or any other officer

of the municipality for advertising the times and places for nomination and of polls, for printing, for providing ballot boxes, ballot papers, materials for marking ballot papers, and balloting compartments, for the transmission of packets, and for reasonable costs including the cost of printing and distribution of but not preparation otherwise of the polling list.

TERM OF OFFICE

9.—(1) Notwithstanding any other general or special Act and except where otherwise specifically provided in this Act, the term of office of all offices, the election to which is governed by this Act, shall be two years, commencing on the first day of January in the year following an election year. ^{Two-year term}

(2) The holders of offices hold office until their successors are elected and the newly elected council or local board is organized. ^{Until new council organized}

BIENNIAL ELECTIONS

10.—(1) Subject to subsection 2, an election shall be held in accordance with this Act in each municipality in the year 1972 and in every second year thereafter for the purpose of electing persons to offices. ^{Election year}

(2) Where the term of office of a member of a council or of a local board terminates at the end of the year 1973, no election shall be held under this Act for that office in the year 1972, but an election for such office shall be held in accordance with this Act on the first Monday in December, 1973, and the persons elected at such election shall hold office for the year 1974 only. ^{Where present term terminates in 1973}

(3) Where a by-law requires the assent or a question is authorized or required to be submitted to obtain the opinion of the electors, the vote thereon shall be taken at the next regular election. ^{Vote on question, etc.}

POLLING DAY

11. Polling day in a regular election shall be the first Monday in December in each election year. ^{Polling day}

QUALIFICATION OF ELECTORS

12. A person is entitled to be an elector in a municipality if he is resident in such municipality at any time during the period of enumeration under section 18 and is at any time during such period, ^{Electors, resident}

- (a) a Canadian citizen or other British subject ;
- (b) of the full age of eighteen years ; and
- (c) not disqualified under this or any other Act or otherwise prohibited by law from voting in the election.

Non-
resident

13. A person is entitled to be an elector in a municipality if he is not resident in such municipality at any time during the period of enumeration under section 18 and is at any time during such period,

- (a) the owner or tenant of land in the municipality or the spouse of such an owner or tenant ;
- (b) a Canadian citizen or other British subject ;
- (c) of the full age of eighteen years ; and
- (d) not disqualified under this or any other Act or otherwise prohibited by law from voting in the election.

Evidence of
citizenship

14. For the purpose of sections 12 and 13, a statutory declaration by a person claiming that he is a Canadian citizen or other British subject is *prima facie* proof of the fact declared to.

QUALIFICATION OF ELECTORS TO VOTE ON MONEY BY-LAWS

Who may
vote on
money
by-laws

15. Every person entitled to be an elector in a municipality under section 12 or 13 is entitled to be an elector to vote on a money by-law submitted for the assent of the electors of the municipality if, he is,

- (a) the owner of land assessed in the municipality ; or
- (b) the tenant of land assessed in the municipality under a lease which extends for the time for which the debt or liability to be created or in which the money to be raised by the proposed by-law is payable or for twenty-one years and under which he covenants to pay all municipal taxes in respect of the land other than local improvement rates and he makes and files with the clerk not later than the last day for making complaints for revision of the preliminary list a declaration stating that he is such a tenant.

16.—(1) A corporation that is the owner of land assessed in a municipality on the last assessment roll or is a tenant of such land under a lease that complies with the requirement of clause *b* of section 15 is entitled to nominate a person to be an elector to vote on a proposed money by-law submitted for the assent of the electors of the municipality. ^{Corporate nominee}

(2) A corporation that is the owner of residential property in a municipality consisting of units or apartments that are owned on a co-operative basis may nominate a person to be an elector to vote on proposed money by-laws submitted for the assent of the electors in the municipality for each such unit or apartment that is separately assessed on the latest assessment roll for the municipality. ^{Idem}

(3) Where a corporation entitled to appoint a nominee to vote on its behalf desires to vote on a proposed money by-law, it shall, not later than the day for filing complaints for the revision of preliminary lists as hereinafter provided, file with the clerk of the municipality an appointment in writing of a person to vote on a proposed money by-law as its nominee and on its behalf. ^{Appointment to be filed}

POLLING SUBDIVISIONS

17.—(1) Subject to the provisions of subsection 2, the clerk shall divide the municipality into polling subdivisions and shall not later than the first day of July in an election year inform the assessment commissioner of the boundaries of each subdivision. ^{Polling subdivisions}

(2) A polling subdivision shall not, ^{Size}

(a) so far as is practicable, contain more than 350 electors; or

(b) extend beyond the boundaries of one ward or of an electoral district established for the purposes of the election of members to the Assembly.

PREPARATION OF PRELIMINARY LIST OF ELECTORS

18. An assessment commissioner shall, during the period commencing on the Tuesday following the first Monday in September and ending on the second Tuesday of October in an election year, from an enumeration taken during that period and from information upon which the assessment roll to be returned to the clerk in that year is to be based, compile for each polling subdivision in each municipality in his assessment region a list containing the name of each person ^{Preliminary list of electors}

who during such period meets the requirements for an elector under section 12 or 13 and such list shall signify opposite the name of an elector,

- (a) who does not reside in the municipality, that he does not so reside;
- (b) who is enumerated as a Roman Catholic separate school supporter, that he is a separate school elector;
- (c) who is a Roman Catholic and the spouse of a Roman Catholic separate school supporter, that such spouse is a separate school elector;
- (d) who is an owner or tenant of land in the municipality, that he is such an owner or tenant.

For polling
subdivision
where no
wards

19.—(1) In a municipality that is not divided into wards, the name of an elector shall be entered on the preliminary list,

- (a) for the polling subdivision in which the elector resides; or
- (b) if the elector does not reside in the municipality, for the polling subdivision in which he or his spouse is owner or tenant of land.

For one
polling
subdivision
only

(2) No elector shall be entered under this section on the preliminary list for more than one polling subdivision and where an elector who does not reside in the municipality, or his spouse, or both, are owners or tenants of several parcels of land in the municipality in more than one polling subdivision, the elector and his spouse are entitled to have their names entered only in the list for the polling subdivision in which the parcel of land which has the highest assessment of any such lands is situated and, where the assessments of two or more such parcels having the highest assessment are identical and they are situate in two or more polling subdivisions, in only one such subdivision.

For polling
subdivision
where wards

20.—(1) In a municipality that is divided into wards, the name of an elector shall be entered in the preliminary list,

- (a) where he resides in the municipality,
 - i. for the polling subdivision in which he resides of the ward in which he resides, and
 - ii. for the polling subdivision of each other ward in the municipality in which he or his spouse is the owner or tenant of land;

- (b) where he does not reside in the municipality, for a polling subdivision of each ward in which he or his spouse is the owner or tenant of land.

(2) No elector shall be entered under this section on the preliminary list for more than one polling subdivision of any one ward in the municipality and, where an elector or his spouse or both are owners or tenants of several parcels of land situated in more than one polling subdivision of any one ward, his name and the name of his spouse shall be entered in the list only for the polling subdivision of the ward in which the parcel of land which has the highest assessment of any such lands is situated and, where the assessments of two or more such parcels having the highest assessments are identical and they are situated in two or more polling subdivisions of a ward, in only one such subdivision.

21. The assessment commissioner shall deliver the list of electors prepared by him under sections 18, 19 and 20 to the clerk on or before the second Tuesday of October in an election year.

PRELIMINARY LIST OF ELECTORS

22. Immediately after receipt of the list of electors from the assessment commissioner, the clerk shall cause the list to be printed or reproduced and such list shall be the preliminary list of electors.

REVISION OF PRELIMINARY LIST OF ELECTORS

23.—(1) Immediately after the printing or reproduction of the preliminary list of electors, the clerk shall,

- (a) fix the last day for filing with the clerk complaints for revision of the list for the purpose of making additions or corrections to or deletions from it and the places at which and the times when revision of the list will be commenced;
- (b) post one copy of the list in a conspicuous place in his office and one copy of the list for each polling subdivision in a conspicuous place in the polling subdivision for which it is prepared; and
- (c) publish notice in a newspaper having general circulation in the municipality, of the date of the posting of the list, the last day for filing complaints, and the places and times at which the revision of the list will be commenced and, where there is no such newspaper, the notice shall be published in such manner as the

clerk may direct and shall be posted in at least two conspicuous places in the municipality.

Time for
posting

(2) The day of posting copies of the preliminary list and of publishing the notice under subsection 1 shall be at least eight days before the last day for filing complaints.

Notice
affixed
to list

(3) The clerk shall affix to the outside or cover of each copy of the preliminary list of electors for an election a notice in prescribed form, over his name,

- (a) stating that the list is a preliminary list of all electors for the election prepared as required by this Act;
- (b) setting forth the date on which the list was posted up in the office of the clerk;
- (c) giving notice to all electors to examine the list for the purposes of making additions or corrections to or deletions from the list; and
- (d) stating the last day for filing complaints concerning such additions, corrections or deletions.

Copies
of list

(4) At the time of posting a notice under subsection 1, the clerk shall deliver or mail one copy of the preliminary list to,

- (a) the assessment commissioner;
- (b) every member of the council of the municipality and every trustee of a police village all or part of which is in the municipality;
- (c) the secretary of every local board the members of which are required to be elected at an election to be conducted by the clerk;
- (d) the clerk of the council of the county or of the district, regional or metropolitan municipality in which the municipality is situate;
- (e) the clerk of the municipality responsible for conducting the elections in any combined area for school board purposes;
- (f) the member of the House of Commons and the member of the Assembly representing the electoral district in which the municipality or any part thereof is situate.

(5) Every candidate for any office in an election is entitled to be furnished by the clerk with two copies of the preliminary list of electors entitled to vote in an election to such office. Candidates entitled to copies

24.—(1) The clerk or an assistant revising officer shall attend at the revision of the preliminary list and shall continue to do so from day to day or as required until all complaints filed before the last day for filing complaints for revision of the list have been disposed of. Revision of list

(2) Notwithstanding that the time for filing complaints for revision of the preliminary list under section 23 has not expired, the clerk may proceed to consider such complaints as from time to time may be received and may determine and dispose of them. When complaints may be considered

25.—(1) A person whose name has not been included in the preliminary list for a polling subdivision in a municipality or whose name has been included therein but the information relating to him set out therein is incorrect may apply to the clerk or assistant revising officer of the municipality on or before the date fixed by the clerk as the last day for filing complaints for revision of the list to have his name included on the list or to have such information corrected. Application to enter name in list or correct information

(2) Every person applying under this section shall sign an application in the prescribed form in which all the information shall be sufficiently filled in, either by the applicant personally or by the clerk or assistant revising officer at the applicant's request, and before entering his name on the list or before correcting the preliminary list, as the case may require, the clerk or assistant revising officer shall satisfy himself that the applicant understands the effect of the statements in the application and that he is an elector entitled to have his name included on the list or to have the list corrected pursuant to his request. Application form

(3) When the language of an applicant under this section is not understood by the clerk or assistant revising officer, an interpreter provided by the applicant may be sworn and may act, but in the event of inability to secure an interpreter, the application may be refused. Interpreter

(4) If it appears to the clerk or assistant revising officer that an applicant under this section understands the effect of the statements in the application and that the applicant is an elector whose name should be included in the polling list or that the amendment thereof that he requests should be made, he shall certify accordingly by signing the application. Decision to amend list

Refusal to
amend list.

(5) If, in the opinion of the clerk or assistant revising officer, the statements made by an applicant in his application under this section do not show that the applicant is an elector entitled to have his name included in the polling list or to have the list amended as requested, he shall inform the applicant that his application is refused, stating the reasons for such refusal, which reasons he shall endorse on the application form.

Application
for deletion
of name

26.—(1) At any time after the posting of the preliminary list of electors for a municipality and until the last day for filing complaints for revision thereof, any person may file with the clerk a complaint, in the prescribed form, for deletion from the list of the name of a person who is not entitled as an elector to have his name entered thereon.

Notice to
person
where name
objected to

(2) The clerk, upon receipt of a complaint under this section, shall forthwith cause to be served personally on or sent by registered mail to the person concerning whom the complaint is made at the address given in the preliminary list and at such other address, if any, as may be mentioned in the complaint, a notice requiring such person to appear in person or by his representative before him on a day to be fixed in the notice.

Copy of
complaint to
be served

(3) A copy of the complaint shall accompany a notice served or sent under this section.

Decision of
clerk, etc.

(4) On the day for the hearing fixed in a notice given under this section, the person filing the complaint shall attend before the clerk or assistant revising officer and establish to his satisfaction the validity of such complaint and the clerk or assistant revising officer after receiving an explanation of the facts alleged and after hearing what is alleged by the person concerning whom the complaint was made, may delete the name from the preliminary list if he is satisfied of the validity of the complaint.

Where person
objected to
does not
appear

(5) Where the person concerning whom a complaint has been made under this section does not attend before the clerk or assistant revising officer on the day of hearing fixed in the notice and the clerk or assistant revising officer is satisfied on oath that due notice of complaint has been given to the person or that he could not be found and the registered notice could not be delivered, the clerk or assistant revising officer may delete the name of such person from the preliminary list of electors but shall not do so except upon evidence under oath which satisfies him that the name should not have been included in the list.

27. Subject to section 31, the decision of the clerk or assistant revising officer to enter on or delete the name of a person as an elector from the preliminary list of electors is final. Decision final

28. Upon determination of all complaints for revision of the preliminary list of electors for a municipality filed on or before the last day for filing complaints for revision thereof, the clerk shall compile a statement of additions and changes to and deletions from the list and shall send a copy of such statement so certified to each person specified in subsections 4 and 5 of section 23 and to the assessment commissioner. Statement of changes

POLLING LIST

29.—(1) After compilation of the statement of additions, changes and deletions required under section 28, the clerk shall prepare the polling list of electors for each polling subdivision in his municipality by making the appropriate changes in the preliminary list in accordance with the statement and shall certify the list as so revised and attach to it a certified copy of the statement of additions and changes, and the list as so revised is the polling list for the polling subdivision. Polling list

(2) The clerk shall, in preparing the polling list of electors under subsection 1, enter after the name of every elector who is a tenant and who has filed a declaration under section 15 that he is entitled to be an elector to vote on a money by-law the words "Entitled to vote on the by-law" and an elector shown as a tenant on the list without such words added after his name is not entitled to vote on the by-law. Tenants entitled to vote on by-law

(3) Where a corporation has appointed a nominee to vote on its behalf on a proposed money by-law in accordance with section 16, the clerk shall enter the name of the nominee in the polling list for the polling subdivision in which the corporation has its chief office in the municipality as a nominee of a corporation entitled to vote on the by-law in such polling subdivision and such nominee shall be deemed to be an elector so entitled to vote. Nominee of corporation entered in list

30. Except as provided in sections 31 and 49, no person is entitled to vote at an election unless his name appears on the polling list certified under section 29 for the polling subdivision in which he tenders his vote. Only persons on list entitled to vote

31.—(1) If an elector whose name is omitted from a polling list certified under section 29, at any time after preparation of the polling list and prior to the closing of the poll, satisfies the clerk of the municipality that he will on polling day be entitled to be an elector under section 12 or 13 and to have his name entered on a polling list for a polling subdivision in the Entry of name on list by D.R.O.

municipality, the clerk may issue a certificate in the prescribed form authorizing the deputy returning officer for such polling division to enter the name of the elector on the polling list for the subdivision and to permit such person to vote, but such vote must be cast before the closing of the poll.

Certificate
to be
produced

(2) A person is not entitled to vote under this section unless at the time he requests a ballot he produces and files with the deputy returning officer the certificate given by the clerk under subsection 1.

Copy to
assessment
commis-
sioner

(3) The clerk shall furnish a copy of each certificate issued under this section to the assessment commissioner.

QUALIFICATIONS OF CANDIDATES

Candidate's
qualification

32. Unless disqualified under this or any other Act, any person who is qualified to hold an office under the Act constituting the office may be nominated as a candidate for such office.

NOMINATIONS

Nomination
day

33.—(1) Nomination day for a regular election shall be Thursday, the eighteenth day before polling day.

Period for
nomination

(2) The period during which candidates in an election may be nominated shall be the seven days immediately preceding nomination day and until 5 o'clock in the afternoon of nomination day.

Notice of
nomination
period

(3) The clerk shall publish, at least six days prior to the commencement of the period during which candidates in an election may be nominated, notice of the time of commencement and closing of such period and of the offices for which candidates in the election may be nominated in a newspaper having general circulation in the municipality and, where there is no newspaper having a general circulation in the municipality, the notice shall be published in such manner as the clerk may direct and shall be posted in at least two conspicuous places in the municipality.

How
nominated

34.—(1) A candidate may be nominated for an office by filing, during the period in which candidates may be nominated, in the office of the clerk during his normal office hours a nomination paper in prescribed form, which,

(a) shall be signed by at least ten electors whose names are entered in the polling lists of electors entitled to vote in an election to such office;

(b) shall state the name, occupation and address of the candidate in such manner as will identify him and the office for which he is nominated; and

(c) shall state the name and address of each elector signing the nomination paper and, where the office for which the candidate is nominated is a member of a school board, that such nominator is a public school elector or a separate school supporter, as the fact is.

(2) No nomination is valid unless there is filed with the nomination paper a consent in writing to the nomination and a declaration of qualification in the prescribed form by the person nominated. Consent and declaration to be filed

(3) A nomination paper nominating a candidate for an office the holder of which is required to be elected by public school electors shall be signed by public school electors only. Public school nominators

(4) A nomination paper nominating a candidate for an office the holder of which is required to be elected by separate school electors shall be signed by separate school supporters only. Separate school nominators

(5) Each candidate for election to an office shall be nominated by a separate nomination paper, but an elector may sign the nomination papers of different candidates. Separate nomination papers

(6) After a nomination paper is filed with the clerk it shall remain in the possession of the clerk. Clerk to keep nomination paper

(7) The onus is on the person nominated for election to an office to file a *bona fide* nomination paper. Onus on person nominated

35.—(1) Where a nomination paper is filed in the office of a clerk, the clerk or his assistant returning officer shall endorse upon it the date and time of its filing. Endorsation by clerk

(2) As the nomination papers are filed with a clerk he shall cause the name, occupation and address of each candidate nominated and the office for which the candidate is nominated to be posted up in his office or other conspicuous place open to inspection by the public. Posting

(3) Where a nomination paper for a candidate for an office is filed in the office of a clerk prior to nomination day, the paper shall be examined by the clerk and if he is satisfied that the candidate and the requisite number of the nominators whose signatures appear on the nomination paper are electors entitled to vote for the office, he shall so certify in writing. Certificate of clerk

Where
filed on
nomination
day

(4) Where the nomination paper for a candidate in an election is filed in the office of a clerk on nomination day and before the time fixed for the close of nominations,

- (a) the clerk shall accept the nomination paper and announce the name of the candidate;
- (b) if, on examination of the nomination paper prior to 5 o'clock in the afternoon on the day following nomination day, it appears to the clerk that the candidate for an office or the requisite number of nominators whose signatures appear on the nomination paper are not electors entitled to vote for the office, he shall reject the nomination and give notice of the rejection immediately by registered mail to such candidate and all other candidates for that office, but if he is satisfied that the candidate and the nominators meet such requirements, he shall so certify in writing.

Certification
by clerk

(5) Certification by the clerk in accordance with subsection 3 or 4 with respect to a nomination paper shall be conclusive evidence of the facts certified.

List of
candidates

(6) The clerk shall establish and maintain in his office a list setting out the name and residence of every candidate whose nomination has been certified under this section for the respective offices for which candidates may be nominated in the order of certification and copies of this list shall be prominently displayed in one or more locations immediately prior to the time fixed for the closing of nominations.

DEATH OF A CANDIDATE

Election on
death of
candidate

36. If as a result of a candidate nominated for election to an office dying before the close of the poll for the election,

- (a) a person would be elected by acclamation to such office, the election to such office is void and a new election shall be held to fill such office; or
- (b) no person would be elected by acclamation to such office, the name of the deceased candidate shall be omitted from the ballots or if the ballots have already been printed, the clerk shall cause notice of the death of the candidate to be posted up in a conspicuous place in every polling place and the election shall be proceeded with as if the deceased candidate had not been nominated.

WITHDRAWAL OF NOMINATIONS

37.—(1) A person nominated as a candidate in an election may withdraw his nomination by instrument in writing, verified by his affidavit and delivered to the clerk before 5 o'clock in the afternoon of the day following nomination day. ^{Withdrawal of nomination}

(2) Where a person has been nominated for more than one office, he may withdraw in respect of one or more offices for which he is nominated by filing his withdrawal in writing with the clerk in his office before 5 o'clock in the afternoon of the day following nomination day and in default he shall be deemed to be nominated for the office for which he was first nominated and to have withdrawn his nomination for any other office. ^{Where nominated in more than one office}

ACCLAMATIONS

38.—(1) If no more candidates are nominated for any office than the number to be elected, the clerk shall forthwith after the close of nominations declare that candidate or those candidates duly elected. ^{Acclamation}

(2) If more candidates are nominated for an office than the number to be elected but one or more candidates withdraws his nomination so that the number remaining is no more than the number required to be elected, the clerk shall forthwith declare the remaining candidate or candidates to be duly elected. ^{Idem}

(3) If the number of candidates declared to be elected to an office under subsection 1 or 2 is less than the number to be elected to such office so that there is a vacancy, a new election shall be held to fill the vacancy. ^{Vacancy}

(4) Where in any election the total number of members of the council of a municipality or of a local board, as the case may be, declared elected under this section and those elected as a result of the poll in the election is less than a quorum of the council or of the local board, the council or local board in office for the preceding year shall continue in office until a new election under subsection 3 is held and the number of members of the council or local board equals or exceeds the quorum. ^{Where quorum not elected}

NOTICE OF POLL

39.—(1) Where more candidates are nominated for election to an office than the number required to fill that office, the clerk shall hold a poll to elect the holder of that office. ^{Poll required}

Notice
of poll

(2) Notice of the time for the holding of the poll in an election, including the advance poll, shall be given by the clerk forthwith after it has been determined that a poll is required, by publishing in a newspaper having general circulation in the municipality and where there is no such newspaper, the notice shall be published in such manner as the clerk may direct, and shall be posted in at least two conspicuous places in the municipality.

VOTING BY BALLOT

Voting
by ballot

40.—(1) Where a poll is held in an election, the votes shall be given by ballot in prescribed form.

Voting
machines

(2) In place of using ballot papers under this Act, with approval of the Minister, the council of a municipality may by by-law authorize the use at an election of voting machines for one or more polling subdivisions.

PREPARATION AND FORM OF BALLOT

Ballots

41.—(1) A clerk who is required to hold a poll for an election to an office shall prepare and cause to be printed a sufficient number of ballots for use in the election containing the names of the candidates for election to the office.

Nomination
of candidate
must be
certified

(2) The name of a person shall not be included in a ballot as a candidate for office unless his nomination as a candidate for such office has been certified by the clerk under section 34.

Order of
names

(3) The names of the candidates shall be shown on a ballot in order of their surnames alphabetically arranged, with given names preceding the surnames, and with the surnames in bold type and the occupation of the candidate shall be stated.

Where
addresses
to be shown

(4) Where there are two or more candidates for election to an office whose given and surnames and occupations are identical or so nearly identical as to create the possibility of confusion, the address of all candidates for election to such office shall be shown on the face of the ballot for such office immediately under their names and in sufficient detail as to identify each candidate.

Nicknames
and titles

(5) Except as provided in subsection 4, no identification such as a title, honour, decoration or degree shall be included with any candidate's name on a ballot to be used in an election, but a name commonly called a nickname or other name by which a candidate is commonly known may be used on the ballot as the name or part of the name of the candidate.

(6) A white circular space shall appear on the ballot to the right of each candidate's name. Space for indicating vote

(7) All ballots for election to the same office shall be of the same description and as nearly alike as possible and the names and occupations, and the addresses if given, of the candidates shall be in one colour and the remainder of the face of the ballot shall be another colour, but different colours may be used for ballots to be used for election to different offices. Ballots for same office to be alike

(8) A ballot may contain instructions as to the number of candidates for which a voter may vote in the following words: "You are entitled to vote for candidates for this office". Number for which vote may be given

42.—(1) For an election in a city or town in which the members of council are elected by wards, there shall be prepared one set of ballots for all the polling subdivisions containing the names of the candidates for the office of mayor, another set for all the polling subdivisions containing the names of the candidates for the office of reeve, or reeve and deputy reeve, and another set for each ward containing the names of the candidates for the office of alderman or councillor for the ward. Wards in city or town

(2) For an election in a city or town in which the members of council are elected by general vote, there shall be prepared for all the polling subdivisions one set of ballots containing the names of the candidates for the offices of mayor, or mayor and reeve, or mayor, reeve and deputy reeve, and another set containing the names of the candidates for the office of alderman or councillor. General vote in city or town

(3) For an election in a township that constitutes a borough within The Municipality of Metropolitan Toronto, one set of ballots shall be prepared for all the polling subdivisions containing the names of the candidates for the office of mayor, another set of ballots for all the polling subdivisions containing the names of the candidates for the office of controller and another set for each ward containing the names of the candidates for the office of alderman. Borough in Metro. Toronto

(4) For an election in a village or township there shall be prepared one set of ballots containing the names of the candidates for the office of reeve or of reeve and deputy reeve, and for the office of councillor. Village or township

(5) The council of a town may by by-law provide that the ballots for an election to the offices of mayor, reeve and By-law providing for separate sets

deputy reeve shall be prepared in separate sets and, the council of a village or township may, by by-law provide that the ballots for an election to the offices of reeve, deputy reeve and councillor shall be in separate sets.

When to be
passed

(6) A by-law for the purposes mentioned in subsection 5 shall be passed not later in the election year than the first day of November and remains in force until repealed, and while in force the prescribed ballots shall be prepared accordingly.

Separate sets
for
controller,
local board,
by-laws, etc.

(7) There shall also be separate sets of ballots,

(a) containing the names of the candidates for the office of,

i. controller, or

ii. member of a local board;

(b) for obtaining the assent of the electors on any by-law or the opinion of the electors on any question required or authorized to be submitted to them at an election.

More than
one by-law,
etc.

(8) Where more than one by-law or question is to be submitted to the electors at one election, all of such by-laws or questions may be placed on one ballot paper.

Composite
ballots

43.—(1) In place of using separate ballots under this Act, the council of a municipality may, by by-law passed and approved by the Minister prior to the first day of November in an election year, authorize the use at a municipal election of composite ballots in such form subject to subsections 1 to 8 of section 41, as the by-law prescribes.

Contents

(2) A composite ballot may contain,

(a) the names of candidates for the offices of member of council, member of a school board, member of a public utility commission or member of any other board, commission or body the members of which are required to be elected by the electors of the municipality or for any one or more of such offices; and

(b) any by-law or question authorized or required by law to be submitted to the electors for their assent or opinion.

Not to be
given to
elector not
entitled to
vote for
office on
ballot

(3) No elector shall be given a composite ballot containing the names of candidates for an office or containing a question or by-law for which he is not entitled to vote.

(4) A by-law passed under this section remains in force from year to year until repealed. By-law in force until repealed

POLLING PLACES

44.—(1) Subject to section 45, the clerk shall provide for each election at least one polling place for each polling subdivision in a place that is most central or most convenient for the electors and is furnished with light and heat and such other accommodation and furniture as may be required, but the polling place may be provided outside the limits of the polling subdivision. Polling place

(2) Every polling place shall be furnished with compartments in which voters may mark their ballots without other persons being able to see how they are marked and it is the duty of the clerk and the deputy returning officer respectively to ensure that a sufficient number of compartments is provided at each polling place. Compartments

(3) The clerk may unite two or more adjoining polling subdivisions and provide one polling place for the united subdivisions. United subdivisions

(4) The clerk may provide such additional polling places in any polling subdivisions as are required having regard to the extent of the subdivision, the remoteness of any number of its voters from the polling place and number of voters that may conveniently vote at one polling place. Additional places

(5) Where there are two or more polling places in a polling subdivision, each polling place shall be designated by the initial letters of the surname of the electors who are to vote in such polling place, in the following manner, thus, from A to M inclusive and from N to Z inclusive, or as may be determined by the clerk. Designation of places

(6) Every elector, the initial letter of whose surname is included within the letters of the alphabet designating a polling place, shall vote in the polling place so designated. Electors to vote in places designated

(7) In local municipalities having more than 5,000 electors, the clerk shall cause to be delivered to each dwelling unit in the municipality a prescribed notice advising the elector or electors therein of the location of the polling place in which that elector or those electors is or are to vote. Notice of location of polling place

45.—(1) Where in a municipality there is situate a hospital or other institution for the reception, treatment or vocational Polling places in institutions

training of persons who have served or are serving in the Canadian Forces or the armed forces of any member of the Commonwealth, or who are blind or deaf, a Workmen's Compensation hospital, a home for the aged, a nursing home or other institution of twenty beds or more, in which chronically ill or infirm persons reside, a polling place shall be provided in such institution or upon the premises, and for the purpose of polling, the institution shall be deemed to be a polling place, and every person resident in the institution who is entered on the polling list shall vote at such polling place.

Attendance
upon patients
to take
vote

(2) Where a patient of such a hospital or other institution is bed-ridden or is unable to walk, it is lawful for the deputy returning officer and poll clerk with the candidates or their scrutineers to attend upon such person for the purpose of receiving his ballot, but no candidate or scrutineer shall be present where the ballot of any such voter is marked under section 60.

Closing of
poll

(3) When every person whose name is entered on the polling list for a polling place governed by this section has voted, the deputy returning officer for the polling place may close the poll at such polling place, but the vote cast at such polling place shall not be counted until after the close of the regular polling places.

SUPPLIES AND EQUIPMENT FOR POLLING PLACES

Supplies for
polling place

46.—(1) At least two days before polling day, the clerk shall cause to be delivered to every deputy returning officer in his municipality,

- (a) a ballot box for his polling place;
- (b) a sufficient number of ballots to supply the electors on the polling list of his polling place, locked and sealed in the ballot box or in some other locked and sealed box;
- (c) a sufficient number of the prescribed directions for the guidance of voters for the purposes of the polling place;
- (d) the polling list and a blank poll book for the polling place;
- (e) all materials necessary for electors to mark their ballots; and
- (f) such other materials as are prescribed.

(2) A ballot box shall be made of durable material, provided ^{Ballot box} with lock and key, and so constructed that the ballots can be deposited therein and cannot be withdrawn without unlocking the box.

(3) When delivering the ballots for a polling place to a deputy ^{Clerk to} returning officer the clerk shall certify the number of ballots ^{certify} so delivered and upon receiving them the deputy returning ^{number of} officer shall make a count of the ballots and forward the ^{ballots} prescribed receipt therefor to the clerk, and shall keep the certificate for return to the clerk with the other documents required to be returned to him under section 75.

(4) Every deputy returning officer before opening the poll, ^{Directions} or immediately after he has received the printed directions ^{to be} from the clerk if they were not received before opening the ^{placarded} poll, shall cause them to be placarded outside the polling place and in every compartment of the polling place, and shall see that they remain so placarded until the close of the polling.

WHERE AND HOW OFTEN ELECTORS MAY VOTE

47. An elector whose name appears on the polling list for a ^{Number} polling subdivision or who presents a certificate to vote there ^{of votes} under section 31 or 48 is entitled to vote in an election in such ^{that} subdivision in accordance with the following rules: ^{may be} ^{given by} ^{an elector}

1. Where the election is to an office to be filled by a general vote of the electors in a municipality or part thereof in which the polling subdivision is located, an elector is entitled to as many votes for the candidates for the office as there are vacancies in such office, but may not give more than one vote to any one candidate.
2. Where the election is to the office of alderman or councillor in a municipality divided into wards, an elector is entitled to vote for as many candidates as there are vacancies in such office for the ward in which the polling subdivision is located, but may not give more than one vote to any one candidate.
3. Where the election is to the office of member of a school board to be elected by public school electors in a municipality or a part thereof, or in a combination of municipalities, in which the polling subdivision is located, a public school elector is entitled to as many votes as there are members to be elected by the public school electors in such municipality or part,

or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.

4. Where the election is to the office of member of a school board to be elected by separate school supporters in a municipality or in a part thereof, or in a combination of municipalities, in which the polling subdivision is located, a separate school supporter is entitled to as many votes as there are members to be elected by the separate school supporters in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.
5. An elector who is entitled to vote in respect of any by-law or question authorized or required by law to be submitted for the assent or opinion of the electors is entitled to vote once only with respect to such by-law or question.

Voting of
D.R.O. and
poll clerk
where
employed

48.—(1) Subject to subsection 2, at the request of a person whose name is entered on the polling list for a polling place in a municipality who has been appointed a deputy returning officer or poll clerk at another polling place, the clerk of the municipality shall give him a prescribed certificate that he is entitled to vote at the polling place at which he is stationed during the polling day.

Where
municipality,
divided into
wards

(2) No certificate shall be issued under this section entitling an elector in a municipality that is divided into wards to vote at a polling subdivision in a ward different from the ward in which the polling place at which the elector is otherwise entitled to vote is situate.

When
certificate
may be
given

(3) The clerk shall not give a certificate under this section until he has ascertained by reference to the polling list or to a certificate under section 31 that the applicant is entitled to vote, and after giving the certificate he shall forthwith give notice in writing thereof to the deputy returning officer for the polling place at which the applicant is by the polling list or certificate under section 31 to be entitled to vote, and the person to whom the certificate has been given is not thereafter entitled to vote at such polling place.

Certificate

(4) The certificate shall designate the polling place at which the person is to be permitted to vote.

List of
certificates

(5) The clerk shall keep a list in which he shall enter before he delivers a certificate under this section,

- (a) the name and residence of the person to whom he gives the certificate;
- (b) the polling place at which the person is authorized to vote under the certificate;
- (c) the polling place at which the person appears by the polling list to be entitled to vote;
- (d) whether the certificate is granted to such person as deputy returning officer or poll clerk; and
- (e) if a certificate is refused, the name of the person applying for the certificate with the grounds of refusal,

and the list shall be open to inspection by any candidate scrutineer or elector.

49.—(1) A person who produces a certificate given to him under section 48 is entitled to vote at the polling place designated therein, but the certificate does not entitle him to vote there unless he has been actually engaged there as a deputy returning officer or poll clerk during polling day. Certificate entitles person to vote

(2) The deputy returning officer shall enter or cause to be entered in the column for remarks in the poll book opposite the name and residence of the person voting under the authority of a certificate, the words "Voted under Certificate". Entry in poll book

(3) A person voting under the authority of a certificate shall deliver it to the deputy returning officer before receiving his ballot. Certificate to be given to D.R.O.

(4) The deputy returning officer shall enclose all certificates to which this section applies in one envelope. To be kept in envelope

PROCEDURE AT POLL

50. Every polling place shall be open for the purpose of taking the poll at every election from 8 o'clock in the forenoon until 7 o'clock in the afternoon of polling day. Hours poll to be open

51.—(1) A deputy returning officer shall attend at the polling place for which he was appointed at least fifteen minutes before the hour fixed for opening the poll. When D.R.O. to attend poll

(2) During the period of fifteen minutes before the opening of the poll, the scrutineers who are entitled to be present in a polling place during polling hours are entitled to have the ballots counted of ballots before opening of poll

intended for use thereat counted in their presence and to inspect the ballots and all other papers, forms and documents relating to the poll.

Inspection,
sealing of
ballot box

52. A deputy returning officer shall, immediately before opening the poll at his polling place, show the ballot box to such persons as are present in the polling place, so that they may see if it is empty, and he shall then lock the box and place his seal upon it in such a manner as to prevent it being opened without breaking the seal, and he shall keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present, and shall keep the box so locked and sealed until the box is required to be opened for the purpose of counting the votes under section 68.

Duties of
D.R.O. on
tender of
vote

53.—(1) Where a person tenders his vote, the deputy returning officer shall proceed as follows:

1. He shall ascertain that the name of such person or a name apparently intended for it is entered on the polling list for the polling subdivision or that such person is entitled to vote under a certificate issued by the clerk pursuant to section 31 or 48.
2. He shall record or cause to be recorded by the poll clerk, in the proper columns of the poll book, the name and residence of such person.
3. If the deputy returning officer is satisfied that such person is the person designated in the polling list or in a certificate mentioned in clause *a* and is otherwise entitled to vote and if no candidate or scrutineer objects to voting by such person, the deputy returning officer shall put his initials on the back of a ballot paper, so placed that when the ballot is folded they can be seen without opening it and shall deliver the ballot paper to such person.
4. If voting by such person is objected to by any candidate or scrutineer, the deputy returning officer shall enter the objection or cause it to be entered in the poll book, by writing opposite the name of such person in the proper column the words "*Objected to*" and the name of the candidate by or on whose behalf the objection was made and the deputy returning officer shall require such person to take the prescribed oath.
5. If the deputy returning officer is not satisfied that such person is the person designated in the polling

list or in a certificate mentioned in clause *a* and is otherwise entitled to vote, although no candidate or scrutineer has objected, he may require such person to take the prescribed oath.

6. If such a person having been required to take the oath refuses to do so, the deputy returning officer shall enter or cause it to be entered opposite the name of such person in the proper column of the poll book the words "*Refused to be sworn*" or "*Refused to affirm*" according to the fact and a ballot paper shall not be delivered to such person.
7. If such person takes the oath, the deputy returning officer shall enter or cause to be entered opposite such person's name in the proper column of the poll book the word "*Sworn*" or "*Affirmed*" according to the fact, shall put his initials on the back of a ballot paper, so placed that when the ballot is folded they can be seen without opening it, and shall deliver the ballot paper to such person.
8. The deputy returning officer may, and upon request shall, either personally or through the poll clerk, explain to the elector as concisely as possible the mode of voting.

(2) A person who on polling day is a prisoner in a penal or reform institution, or a patient in a mental hospital, or who has been transferred from a mental hospital to a home for special care as mentally incompetent is disqualified from voting at any election and no ballot shall be furnished to such a person.

Disqualification of prisoners, mentally ill, etc.

54.—(1) Where an elector entitled to vote at a polling place applies for a ballot paper and it appears that another person has voted as such elector or that an entry has been made on the polling list in error that such elector has polled his vote, if such person takes an oath in the prescribed form and otherwise establishes his identity to the satisfaction of the deputy returning officer he is entitled to receive a ballot paper.

Where it appears person voted in place of elector, etc.

(2) The deputy returning officer shall enter or cause to be entered on the poll book opposite the name of the elector who votes under this section a note of his having voted on a second ballot or of an entry having been made in the polling list in error that he has polled his vote, as the case may be.

Entry in poll book

55.—(1) An elector who is required to take the oath is entitled to select any one of the prescribed forms of oaths,

Form of oath

whatever may be the description in the polling list of the qualification or the character in which he is entered upon it.

Inquiry

(2) No inquiry shall be made of an elector who is required to take the oath except with respect to the matters required to be stated in the oath or to ascertain if he is the person intended to be designated on the polling list.

Procedure on receipt of ballot

56. Upon delivery to him of a ballot paper by a deputy returning officer, the person receiving it shall,

- (a) forthwith proceed into the compartment provided for the purpose and shall then and there mark his ballot paper with a cross or other mark with a pen or pencil within the circle following the name of a candidate for whom he intends to vote;
- (b) then fold the ballot paper so as to conceal the names of the candidates and the marks upon the face of it and so as to expose the initials of the deputy returning officer;
- (c) then leave the compartment without delay, and without showing the face of the ballot paper to anyone, or so displaying it as to make known how he has marked it; and
- (d) then deliver the ballot paper so folded to the deputy returning officer.

Duty of D.R.O. on receipt of ballot

57.—(1) Upon delivery of a ballot paper to him by an elector, the deputy returning officer, without unfolding the ballot paper, or in any way disclosing the names of the candidates or the marks made by the elector, shall verify his own initials, and at once deposit the ballot paper in the ballot box in the presence of all persons entitled to be present and then present in the polling place, and the elector shall forthwith leave the polling place.

Person deemed to have voted

(2) A person whose ballot has been placed in the ballot box by the deputy returning officer shall be deemed to have voted.

Entry in poll book

(3) The deputy returning officer or the poll clerk shall place his initials in the appropriate column of the poll book opposite the name of every person who has voted for candidates for the office named in that column.

Person not to take ballot from polling place

58.—(1) A person who has received a ballot from a deputy returning officer shall not take it out of the polling place, and a person who receives a ballot and leaves the polling place

without returning it to the deputy returning officer, or returns his ballot declining to vote, forfeits his right to vote, and the deputy returning officer, shall make an entry in the poll book in the column for remarks to the effect that the person received a ballot but took it out of the polling place, or returned it declining to vote, as the case may be, and in the latter case the deputy returning officer shall immediately write the word "*Declined*" upon the ballot and preserve it to be returned to the clerk.

(2) An elector who has inadvertently dealt with his ballot in such a manner that it cannot be conveniently used, upon returning it to the deputy returning officer, is entitled to obtain another ballot, and the deputy returning officer shall immediately write the word "*Cancelled*" upon the first-mentioned ballot and preserve it to be returned to the clerk.

Ballot
accidentally
spoiled

59. Subject to section 60, while an elector is in a compartment for the purpose of marking his ballot paper, no other person shall be allowed to enter the compartment or to be in a position from which he can see how the elector marks his ballot paper.

No other
person in
compartment
while elector
marking
ballot

60.—(1) On the application of any elector who is unable to read or is incapacitated by blindness or other physical cause from voting in accordance with the other provisions of this Act, the deputy returning officer shall require the elector making the application to take an oath of his incapacity to vote without assistance, and shall thereafter assist the elector by marking his ballot in the manner directed by the elector in the presence of the poll clerk and of no other person and place the ballot in the ballot box.

Voter
incapacitated
by blindness,
etc.

(2) The deputy returning officer shall either deal with a blind elector in the manner provided in subsection 1 or, at the request of any blind elector who has taken the prescribed oath and is accompanied by a friend, shall permit the friend to accompany the blind elector into the voting compartment and mark the elector's ballot for him.

Blind voter's
ballot
marked by
friend

(3) Any friend who is permitted to mark the ballot of a blind elector under subsection 2 shall first be required to take the prescribed oath that he will keep secret the manner in which the blind elector voted.

Oath of
friend

(4) No person shall be allowed to act as the friend of more than one blind elector at any polling place other than a polling place established under section 45.

May act
as friend
only
once

Entry in
poll book

(5) The deputy returning officer shall enter in the column for remarks in the poll book opposite the elector's name the reason why the ballot was marked by him or by a friend of the elector.

Voter who
cannot
understand
English

61. Where an elector does not understand the English language, an interpreter provided by the elector may be sworn in the prescribed form to translate the necessary oaths as well as any lawful questions necessarily put to the elector and his answers, but in the event of inability to secure an interpreter, the elector shall be refused a ballot.

Who may
remain in
polling
place

62. The deputy returning officer, the poll clerk, the election assistant, the constable or constables, any candidate or, in his absence, his scrutineer, any scrutineer appointed by the council in relation to any by-law or question, and no others shall be permitted to remain in the polling place during the time the poll is open or to be in the polling place at the counting of the votes.

ADVANCE POLLS

Advance
poll

63.—(1) The clerk shall hold an advance poll in accordance with this section on the Monday and Saturday, seven days and two days respectively, before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivisions for which their names appear on the polling lists or who are entitled to vote under a certificate issued by the clerk under section 42.

When poll
to be
open

(2) The advance poll shall be open from 8 o'clock in the forenoon until 7 o'clock in the afternoon on each of the two days it is held and polling shall be held so far as possible in the same manner as polling at a regular election.

Polling
places

(3) The clerk shall provide as many polling places for an advance poll as he considers necessary with at least one for each ward in a municipality that is divided into wards and shall appoint a deputy returning officer and poll clerk for each such polling place.

Declaration
of elector

(4) Every person offering himself as a voter at a polling place for an advance poll shall be required by the deputy returning officer before being allowed to vote to make the prescribed declaration, which shall be kept by the deputy returning officer with the other records of the poll.

List of
persons
voting

(5) Forthwith after the close of the advance poll on each day it is held, the deputy returning officer shall make up and deliver to the clerk a list of the names of all persons

who have voted showing in each case the number of the polling subdivision in which the elector is entered on the polling list.

(6) Upon receiving the list mentioned in subsection 5, the clerk shall, Duties of clerk on receiving list

(a) make an entry in the polling list to be supplied to each deputy returning officer on polling day opposite the name of each elector whose name appears on such list and whose vote has been received at an advance poll, showing that such elector has voted; or

(b) make a certificate in the prescribed form for each polling subdivision, showing the name and address of each elector listed on the polling list for such polling subdivision who has voted at an advance poll, and shall furnish such certificate before the opening of the poll on polling day to the deputy returning officer of the polling subdivision, and the deputy returning officer shall before opening the poll make an entry on the polling list supplied to him, opposite the name of each elector whose name appears on the certificate, showing that such elector has voted.

(7) On the regular polling day for an election, after the close of polling, the deputy returning officer shall, in the presence of such candidates for office at the election and their scrutineers as are present at the hour fixed for the closing of the poll, open the ballot boxes for the advance poll, count the votes and perform all other duties required of deputy returning officers by this Act. Opening of ballot boxes for advance poll

PROXY VOTING

64.—(1) Any person whose name is entered on the polling list for a polling subdivision and who is, Who may vote by proxy

(a) a person other than one described in section 45 and who is certified by a legally qualified medical practitioner, by certificate filed with the clerk, to be physically incapable of attending a polling place; or

(b) a person absent from his regular residence by reason of attending an educational institution and who is entered on the list for the polling subdivision in which he normally resides and who expects by reason of such absence to be unable to vote at the advance poll or on polling day,

may vote by proxy in that polling subdivision.

Who may be proxy

(2) Any person who is entitled to vote by proxy pursuant to subsection 1 may appoint in writing as his voting proxy a person who is entitled to vote in the municipality in which the person voting by proxy is qualified to vote.

May be proxy once only

(3) A voting proxy may not act as a voting proxy for more than one person voting by proxy except where the person voting by proxy is the child, grandchild, brother, sister, husband or wife of the voting proxy, in which case a voting proxy may act for more than one such person voting by proxy.

Term of appointment

(4) An appointment of a person as a voting proxy is not valid unless it is made after nomination day and does not remain in force after polling day.

Application for certificate to vote by proxy

(5) A person who has been appointed a voting proxy may apply to the clerk not later than 5 o'clock in the afternoon of the Tuesday preceding polling day to receive a certificate to vote by proxy for the polling subdivision in which the person appointing the voting proxy is entitled to vote.

When certificate to be given

(6) The clerk shall take evidence on oath as to the right of the person appointing the voting proxy to vote in the polling subdivision upon the list for which his name is entered and as to the qualifications of the voting proxy, and, if he finds that the person appointing the voting proxy is duly qualified and that the voting proxy is qualified to act for the person appointing him, he shall give a certificate in prescribed form across the face of the appointment of the voting proxy to that effect.

Not more than one proxy

(7) Not more than one voting proxy may be appointed on behalf of any person at any election.

Oath on voting

(8) A ballot shall not be delivered to a person who claims to vote as a voting proxy unless he produces his appointment as a voting proxy to the deputy returning officer with the certificate of the clerk thereon as provided in subsection 6 and takes the prescribed oath.

Record of voting proxy

(9) Where a voting proxy has voted, the deputy returning officer shall record in the poll book the fact that the person appointing the voting proxy voted by proxy and the name of the voting proxy, and shall file the appointment of the voting proxy and the certificate of his appointment given by the clerk with the election papers and return them to the clerk in the envelope provided for that purpose.

(10) A person who has been appointed as a voting proxy is ^{Proxy may} entitled to vote in his own right in the municipality not-^{vote in} own right withstanding that he has voted as a voting proxy.

KEEPING OF PEACE: INTERRUPTED ELECTIONS

65. A clerk or a deputy returning officer may require the ^{Assistance of} assistance of constables and other persons to aid him in main-^{constables} taining peace and order at the election and may swear in as many constables as he considers necessary.

66. If by reason of riot or other emergency the voting at a ^{When} polling place is not commenced on the proper day or is inter-^{election not} rupted after being commenced and before the lawful closing ^{commenced or} thereof, the clerk or deputy returning officer, as the case may ^{interrupted} be, shall hold or resume the polling on the following day at 8 o'clock in the forenoon and continue the same from day to day, until the poll has been opened without interruption and with free access to voters for eleven hours in all.

COUNTING THE VOTES

67. Immediately after the close of the poll, the deputy ^{Duties of} returning officer at each polling place shall, ^{D.R.O. after} ^{close of poll}

- (a) place all the cancelled, declined and unused ballots in separate sealed envelopes;
- (b) count the number of electors whose names appear by the polling book to have voted and make an entry in the book on the line immediately below the name of the elector who voted last as follows:—"The number of electors who voted at this election in this polling place is (stating the number)" and sign his name thereto.

68.—(1) After compliance with section 67, the deputy ^{Counting of} returning officer shall, in the presence and in full view of the ^{votes} persons entitled to be present, open the ballot box for the polling place and proceed to count the numbers of votes for each candidate, giving full opportunity to those present to examine each ballot.

(2) In counting the votes, the deputy returning officer shall ^{Rejection of} reject all ballots, ^{ballots}

- (a) that have not been supplied by him;
- (b) that contain the names of candidates for one office only and in which votes have been cast for more candidates than are to be elected to the office;

- (c) that are separate ballots submitting a by-law for the assent or a question for the opinion of the electors, and votes are cast for both the affirmative and the negative on the by-law or question ; or
- (d) upon which there is any writing or mark by which the elector can be identified, or that has been so torn, defaced or otherwise dealt with by the elector that he can thereby be identified,

but no word, letter, or mark written or made or omitted to be written or made by the deputy returning officer on a ballot voids it or warrants its rejection.

Idem

(3) Where a ballot contains the names of candidates for more than one office and votes are cast on such ballot for more candidates for any office than are to be elected to such office, such votes are void and shall be rejected, but unless such ballot is rejected under subsection 2, the votes for any other office in respect of which the elector has not voted for more candidates than are to be elected shall be counted.

Composite
ballots

(4) Where in a composite ballot,

- (a) votes are cast for more candidates for any office than are to be elected to such office ; or
- (b) votes are cast for both the affirmative and negative on any by-law or question,

the votes for such candidates or with regard to the by-law or question, as the case may be, are void and shall be rejected but, unless such ballot is rejected under subsection 2, the votes for any other offices, by-law or question in respect of which votes are correctly indicated shall be counted.

Where part
of votes
rejected

(5) Where part of the votes cast in any ballot are rejected under subsection 3 or 4, the deputy returning officer shall note such fact on the back of the ballot and initial the note, and where all the votes on the ballot are rejected under either or both of such subsections, the ballot shall be treated as a rejected ballot.

Objection
by candidate,
etc.

69.—(1) A candidate or a scrutineer at a polling place may object to a ballot or to the counting of votes in any ballot in whole or in part on the ground that the ballot or such votes should be rejected under section 68 and the deputy returning officer at the polling place shall decide the objection, subject to review on a recount or in a proceeding questioning the validity of the election.

(2) The deputy returning officer shall list all objections ^{Objections to be listed} under subsection 1 to the counting of ballots or of votes therein and number such objections and shall place the number of an objection on the back of the ballot objected to and initial the number.

70. The deputy returning officer shall count all votes cast ^{How votes counted} at his polling place that are not rejected and shall keep an account of the number of votes so cast and allowed for each candidate and with respect to each by-law or question.

71. Following count of the votes at his polling place, a ^{Ballots to be placed in separate packets} deputy returning officer shall place in separate sealed packets,

- (a) all used ballots that have not been objected to and have been counted in whole or in part ;
- (b) all used ballots that have been objected to but which have been counted in whole or in part ;
- (c) all rejected ballots ;
- (d) all ballots used but unmarked.

72. The deputy returning officer shall endorse every ^{D.R.O. to endorse packets} packet of ballots made up by him under clause a of section 67 or section 71 so as to indicate its contents and any candidate or scrutineer present may write his name on the packet.

73. The poll clerk, immediately after the completion of the ^{Oath of poll clerk} counting of the votes, shall take and subscribe the prescribed oath.

STATEMENT AND MATERIALS RETURNED TO CLERK

74.—(1) The deputy returning officer shall make out a ^{Statement of D.R.O.} statement in duplicate of the number of,

- (a) ballots received from the clerk ;
- (b) votes given for each candidate ;
- (c) votes given for and against a by-law or question ;
- (d) used ballots that have not been objected to and have been counted ;
- (e) ballots that have been objected to in whole or in part but which have been counted ;

(f) rejected ballots ;

(g) cancelled ballots ;

(h) ballots used but unmarked ;

(i) declined ballots ;

(j) unused ballots ;

(k) voters whose ballots have been marked by the deputy returning officer under sections 45 and 60.

Statement
attached to
poll book

(2) One statement shall be attached to the poll book and the duplicate statement shall be delivered to the clerk as provided herein.

Statement
signed by
D.R.O., etc.

(3) The statement shall be signed by the deputy returning officer and the poll clerk and such of the candidates or their scrutineers as are present and desire to sign it.

Certificate
re ballots
counted and
rejected

(4) The deputy returning officer shall deliver to such of the candidates or their scrutineers as are present, if requested to do so, a certificate of the number of ballots counted for each candidate, and of the rejected ballots.

What to be
placed in
ballot box

75.—(1) The deputy returning officer shall place in the ballot box the poll book, the polling list, the packets containing the ballots and all other documents or packets that served at the election, except,

(a) the duplicate statement ;

(b) the oath of the deputy returning officer ;

(c) the oath of the poll clerk ; and

(d) the oath of the person, if any, chosen to deliver the ballot box to the clerk.

Box to be
locked, etc.

(2) The deputy returning officer shall then lock and seal the ballot box and forthwith deliver it and the documents enumerated in subsection 1 personally to the clerk.

Oath of
D.R.O.

(3) Forthwith thereafter, the deputy returning officer shall take and subscribe the prescribed oath and shall personally deliver it or transmit it by registered mail to the clerk.

Delivery of
ballot box,
etc., to
clerk

(4) If the deputy returning officer is unable personally to deliver the ballot box and documents enumerated in sub-

section 1 owing to illness or other cause, he shall deliver them to the poll clerk for delivery to the clerk, or, where the poll clerk is unable to act, to some person chosen by the deputy returning officer for the purpose of delivering them to the clerk, who shall take the prescribed oath to do so and the deputy returning officer shall thereon, or on a ticket attached thereto, write the name of the person to whom the box was delivered and shall take a receipt therefor, and the poll clerk or person so chosen shall forthwith personally deliver them to the clerk and shall take before him the prescribed oath.

(5) The candidates, or their scrutineers, are entitled to be present when the ballot box and documents for a polling place are delivered to the clerk pursuant to this section. Right of candidate, etc., to be present

(6) A deputy returning officer, after the close of the poll, shall not under any circumstances take, or allow to be taken, the ballot box to his home, house, office or place of business, or to any house or place except the office of the clerk. D.R.O. not to take box to home, etc.

76.—(1) The clerk, after he has received the ballot boxes and other documents referred to in section 75, shall, without opening any of the ballot boxes, cast up from the duplicate statements showing the number of votes for each candidate and for the affirmative or negative on any by-law or question at each polling place the total number of votes for each candidate and the total number of votes for the affirmative or negative on any by-law or question. Clerk to add up votes

(2) After casting up the total number of votes cast at an election, the clerk shall, at the town hall or, if there is no town hall, at the clerk's office at noon on the Thursday following the day on which the polling is held, publicly declare to be elected the candidate or candidates having the highest number of votes, and declare the result of the vote with respect to any by-law or question and he shall also post up in some conspicuous place a statement under his hand showing the number of votes for each candidate and for the affirmative or negative on the by-law or question. Declaration of result

(3) If for any cause, the clerk cannot, at the day and hour appointed by him for adding up the votes, ascertain the number of votes given for each candidate, or for the affirmative or negative on any by-law or question he may adjourn to a future day and hour the adding up of the votes and so on from time to time, such adjournment or adjournments not in the aggregate to exceed fourteen days. Delay in adding up votes

77.—(1) Except as provided in this section, the clerk, upon the receipt of a ballot box, and the documents referred to in Safekeeping of box and documents

section 75, shall take every precaution for their safekeeping and for preventing any other person from having access to them, and shall immediately on receipt of the ballot box seal it with his own seal in such a way that it cannot be opened without his seal being broken, and that any other seals affixed to it are not effaced or covered.

Opening of
box when
documents
placed in
box in
error

(2) Where the documents specified in subsection 1 of section 75 are in error placed in the ballot box or where the duplicate statement cannot be interpreted by the clerk, he may open such ballot box or boxes in the presence of the deputy returning officer concerned and, after having recovered or ascertained the meaning of the statement, as the case may be, the box shall be resealed by the deputy returning officer in the presence of the clerk and by the clerk.

Where D.R.O.
fails to
deliver
statement

(3) If a deputy returning officer has not delivered the statement of the ballots counted by him to the clerk as required by section 75, the clerk shall after notification to the candidates or their scrutineers, who may be present, open the appropriate ballot box for the purpose of counting the votes and shall count the votes.

Where ballot
box lost,
etc.

78. If a ballot box for any polling place has been destroyed or lost, or, for any other reason, is not forthcoming by the time fixed for adding up the votes, the clerk shall ascertain the cause and, if the statement of the votes cast and certificates, or any of them or copies of them, cannot be procured, the clerk shall ascertain by such evidence as he is able to obtain, the total number of votes given for each candidate at the polling place and for the affirmative or negative on any by-law or question, and may summon any deputy returning officer, poll clerk, election assistant or other person to appear before him at a time and place to be named by him, and the clerk shall notify the candidates of the intended proceedings and may examine on oath such deputy returning officer, poll clerk, election assistant or other person respecting the matter in question.

Equality
of votes

79.—(1) If upon the casting up of the votes, two or more candidates have an equal number of votes where both or all of such candidates cannot be elected, or the votes for the affirmative and negative on a by-law or question are equal, the clerk shall publicly declare the result and post up in a conspicuous place a statement showing the number of votes for each candidate and for and against the by-law or question and shall forthwith notify a judge of the result and the judge shall thereupon appoint a time and place to recount the votes cast up for such candidates or concerning such by-law or question.

(2) In such proceedings, sections 80 to 87 apply *mutatis mutandis*. Application of ss. 80-87

RECOUNT

80.—(1) In this section and in sections 81 to 83, “judge” Interpretation means the judge of the county or district court in which the municipality or part thereof or the administrative or head office of the local board is situate.

(2) If, within fourteen days after the declaration by a clerk of the result of an election, upon an application of a candidate or voter it is made to appear by affidavit to a judge that the votes have been improperly counted or any ballot paper has been improperly rejected or that an incorrect statement of the number of ballots cast for any candidate or for the affirmative or negative on any by-law or question has been made or that the votes have been improperly added up, and if within that time the applicant has given security for the costs in connection with the recount or final addition of any candidate declared elected in the amount of \$100 in legal tender, or if at any time within four weeks after such declaration the council of the municipality whose clerk was the returning officer has by resolution declared that a recount or final addition is desirable in the public interest, the judge shall appoint a time and place to recount or make a final addition of the votes cast at the election, and shall notify the clerk thereof. Where recount desirable

(3) At least two days notice in writing of the time and place appointed shall be given by the clerk to the candidates and to the applicant, and the clerk or a person appointed by the clerk for the purpose shall attend the recount or final addition with the ballot boxes and all documents relating to the election. Notice of recount

(4) The judge, the clerk, a person appointed by the clerk, each candidate and his scrutineer appointed to attend the recount or final addition, and such other persons as the council may appoint where the recount or final addition relates to a by-law or question, but no other person, except with the approval of the judge, is entitled to be present at the recount. Who may be present

(5) Where a recount relates to the election of a candidate, the recount shall be of the ballots cast respectively for the candidate declared elected when one only is to be elected or in other cases for the candidate who received the lowest number of votes of those declared elected by the clerk and for the defeated candidate who received the highest number of votes for the same office unless any other candidate in writing requires the ballots cast for him to be recounted or the votes cast for him to be finally added. What ballots involved in recount

Procedure
by judge

(6) At the time and place appointed, and in the presence of such of the persons entitled to be present as may attend, the judge conducting a recount or final addition of the votes cast at an election shall make such final addition from the statements returned to the clerk by the deputy returning officers, or recount all the ballots received by the clerk from the several deputy returning officers and the number of votes counted at the election and shall for the purposes of the recount open the sealed packets containing the used ballots that were not objected to and were counted, the ballots that were objected to but which were counted, the rejected ballots, the cancelled ballots, the ballots that were used but were unmarked, the declined ballots and the unused ballots.

Rules to
govern
proceedings

(7) Subject to subsection 8, the judge shall proceed according to the provisions of this Act for the counting of the ballots and of the vote at the close of the poll by a deputy returning officer, and shall verify and correct the statement of the poll.

Judge may
hear any
evidence
necessary for
proper
recount

(8) If for any reason it appears desirable to do so the judge, upon the application of any party to a recount, may hear such evidence as he considers necessary for the purpose of making a full and proper recount of the ballots, and, without restricting the generality of the foregoing, he may, if the recount results in any of the candidates for any office being declared to have received the same number of votes as any other candidate or candidates who were parties to the recount, hear such evidence as he considers necessary to determine who was elected to that office.

Judge to
certify
recount
to clerk

(9) Upon the completion of a recount all the ballots shall be sealed in their separate packets and upon completion of final addition, the original statements shall be sealed in their respective packets and the judge shall forthwith certify the result of the recount or final addition to the clerk.

Clerk of
court

(10) The judge may require the clerk of the county or district court to be present at the time and place appointed.

Time for
sending
certificate
to clerk

81.—(1) The judge shall delay sending his certificate under section 80 to the clerk for two days after the completion of the recount or final addition in order to allow for an appeal as provided in section 84.

If no appeal
clerk to
declare
result

(2) If no notice of appeal is given to the judge within two days after the completion of a recount or his final addition, the judge shall certify forthwith the result to the clerk who shall then declare the candidate having the greatest number of votes to be elected or certify to the council the result of the vote with respect to a by-law or question.

82. In the case of an equality of votes for candidates for any office for which one person only is to be elected, as a result of a recount or final addition, the successful candidate shall be determined by lot conducted by the clerk. Equality of votes after recount where one person to be elected

83.—(1) The costs of a recount under section 80 are in the discretion of the judge making the recount who may order by whom, to whom and in what manner the costs shall be paid. Costs of recount

(2) The judge may in his discretion award costs of a recount or final addition to or against any candidate who is a party to it and may fix the amount thereof or order that they be taxed by the clerk of the district or county court on a scale following as nearly as may be the tariff of costs of the county court. Awarding of costs

(3) Where the judge makes no provision as to the costs of a recount or final addition, the disbursements made or authorized to be made by the clerk shall be paid by the municipality. Where no provision as to costs

(4) Where costs are directed to be paid by the applicant for a recount or final addition, the money deposited as security for costs under section 80 shall be paid out to the party entitled to such costs, so far as necessary. Payment of deposit

(5) Payment of the costs awarded under this section may be enforced by execution to be issued from any county or district court, upon filing therein the order of the judge and a certificate showing the amount at which the costs were taxed and an affidavit of the non-payment of them. Enforcement of payment of costs

(6) The judge is entitled to receive from the municipality the expenses necessarily incurred in attending at the place designated by him for a recount or final addition. Expenses of judge

84.—(1) Upon expiry of the time for appeal from a decision of a judge on a recount or final addition if no appeal has been taken, the judge shall cause all the ballots to be sealed in their original packets and upon completion of final addition, shall cause the original statements to be sealed in their respective packets and returned to the custody of the clerk. Where no appeal documents, etc., to be returned to clerk

(2) If an appeal is taken from the decision of a judge on a recount or final addition, the judge shall cause such of the ballots and such of the original statements as are not required for the purpose of the appeal to be sealed in their respective packets and returned to the custody of the clerk. Documents not required on appeal

APPEAL FROM DECISION ON RECOUNT OR FINAL ADDITION

Appeal from
decision of
judge

85.—(1) Any party may appeal from the decision of the judge who conducted a recount or final addition other than a decision on a recount or final addition of votes in relation to any by-law or question, by giving notice in writing within two days after the completion of the recount or final addition to the other parties and to the judge of his intention to appeal, and he may by the notice limit the appeal to specified ballots.

Service of
notice

(2) The notice may be served upon the other parties personally, or as a judge of the Supreme Court may direct.

Ballots, etc.,
to be for-
warded to
Registrar
of Supreme
Court

(3) Where the appeal is limited, the judge who conducted the recount or final addition shall cause to be sealed the ballots or statements that are the subject of appeal in a separate packet and shall forward them, together with the notice and a certificate showing his findings as to the ballots in dispute, by registered mail to the Registrar of the Supreme Court, but, if the appeal is not limited the judge shall forward all the ballots and other papers to the Registrar, and in either case he shall await the result of the appeal before sending his certificate under section 80 to the clerk.

Appointment
for hearing

(4) On receipt of the ballots and notice, the Registrar shall forthwith obtain an appointment from a judge of the Supreme Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed.

Procedure on
appeal

(5) At the time appointed, the judge of the Supreme Court shall recount the ballots or such of them as are the subject of appeal, or review the final addition, as the case may be, and shall forthwith certify his decision to the judge who conducted the recount or final addition, whose duty it is to conform to the decision and to certify the result without delay to the clerk.

Costs of
appeal

(6) The judge of the Supreme Court may direct by and to whom, the costs of the appeal shall be paid.

Idem

(7) Where the judge of the Supreme Court makes no provision as to costs, the disbursements made or authorized to be made by the clerk, shall be paid by the municipality.

DISPOSITION OF ELECTION RECORDS

Disposition
of ballots

86.—(1) The clerk shall retain in his possession for ninety days from the date of the poll for an election all the ballots in the election and, unless otherwise directed by an order of a judge or officer having jurisdiction to inquire as to the validity of

the election, shall then destroy them in the presence of two witnesses, who shall make a statutory declaration that they witnessed the destruction of them and such declaration shall be filed in the office of the clerk.

(2) Subject to subsection 1, the clerk shall retain in his possession all oaths, nominations, qualification documents, statements of the votes cast, and other documents relating to an election until the successors to the persons elected at such election have taken office, and may then destroy them. Disposition of other documents

87.—(1) No person shall be allowed to inspect any ballot or other document relating to an election in the custody of the clerk except under the order of a judge. Inspection of ballots, etc.

(2) The order may be made on the judge being satisfied by affidavit or other evidence that the inspection is required for the purpose of maintaining a prosecution for an offence, or corrupt practice, or of taking proceedings for contesting the election or return. Order of judge

88. Where an order is made for the production by the clerk of any document in his possession relating to an election, the production of it by him in such manner as may be directed by the order is evidence that the document relates to the election, and any endorsement appearing on any packet of ballots so produced is evidence that the contents are what they are stated to be by the endorsement. Production of documents by clerk

NEW ELECTIONS

89.—(1) Where a new election is required under the authority of this or any other Act to fill a vacancy in any office by an election other than a regular election, the clerk of the municipality who is the returning officer with whom nominations may be filed shall set the date of the nomination day which shall be within forty-five days of the day on which the vacancy for which he is required to hold the election occurs. New election

(2) The procedure including the period for filing nominations at a new election shall be the procedure and period applicable at a regular election of the municipality and polling day shall be not less than eighteen and not more than twenty-one days after nomination day. Procedure

(3) The polling required to fill a vacancy in an office by this section shall so far as possible be held in the same manner and by the same officers and take place at the same places in so far as practicable at which the polling took place at the last regular election. Polling

List of
electors

(4) Unless a new preliminary list of electors has been furnished by the assessment commissioner, under subsection 5, the preliminary list to be used for preparation of the polling list for a new election shall be the polling list used at the last regular election, which shall be subject to revision as if it were a preliminary list of electors under section 24 and to additions pursuant to a certificate of the clerk under section 31 and the clerk may fix the times and places for the making of complaints as to revision.

Idem

R.S.O. 1970,
c. 32

(5) Where in the year following an election year, the annual enumeration under *The Assessment Act* has, prior to the holding of the new election, been completed for the municipality or municipalities in which the new election is to be held, the assessment commissioner shall, within fourteen days of a request by the clerk or clerks of such municipality or municipalities, furnish a new preliminary list of electors based on such annual enumeration and in accordance with the requirements of this Act pertaining to the preparation of such lists and such preliminary list shall for all purposes, including revision by the clerk, be the preliminary list of electors for the new election.

Eligibility
of member
to be
candidate
for other
office

(6) Where a vacancy occurs in any office and an election is to be held to fill such vacancy, a member of any other office is not eligible to be a candidate for the vacant office unless he has, before the first day of the period during which nominations for the new election may be filed, filed with the clerk a certified copy of his resignation from the office that he then holds with evidence satisfactory to the clerk that such resignation has been filed as required by legislation governing the office that he then holds.

Vacancy
after
March 31st
of election
year

(7) Notwithstanding anything in this or any other general or special Act, a new election shall not be held to fill a vacancy where the vacancy occurs after the 31st day of March of an election year.

Council may
meet not-
withstanding
vacancy

90. Notwithstanding that a new election becomes necessary, meetings of the council may be held if a quorum of the council is present.

EFFECT OF IRREGULARITIES

Irregularities
not to offset
result

91. No election shall be declared invalid,

- (a) by reason of any irregularity on the part of the clerk or in any of the proceedings preliminary to the poll;
- (b) by reason of a failure to hold a poll at any place appointed for holding a poll;

- (c) by reason of non-compliance with the provisions of this Act as to the taking of the poll, as to the counting of the votes or as to limitations of time; or
- (d) by reason of any mistake in the use of the prescribed forms,

if it appears to the court having cognizance of the matter that the election was conducted in accordance with the principles of this Act and that the irregularity, failure, non-compliance or mistake did not affect the result of the election.

OFFENCES, PENALTIES AND ENFORCEMENT

92. Every person who, at an election,

Voting when
not qualified,
etc.

- (a) not being qualified to vote, votes; or
- (b) being qualified to vote, votes more times than he is authorized to vote by this Act; or
- (c) votes in a polling subdivision other than one in which he is entitled to vote by this Act,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both.

93. Every person who,

Improper
voting by
proxy

- (a) having appointed a voting proxy to vote at an election, attempts to vote at the election otherwise than by means of such voting proxy while the voting proxy is in force; or
- (b) having been appointed a voting proxy at an election, votes or attempts to vote at the election under the authority of the proxy when he knows or has reasonable grounds for supposing that his appointment has been cancelled or that the elector who made the appointment is dead or is no longer entitled to vote,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both.

94. Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise wilfully makes up a false statement of the poll is guilty of a corrupt practice and is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both.

Wilful
miscount
of ballots

Neglect of
duties

95. Every clerk, deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

Offences
relating to
ballot
papers

96. Every person who,

- (a) without authority, supplies a ballot to any person;
- (b) places in a ballot box a paper other than the ballot that he is authorized by law to place therein;
- (c) delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot given to him by the deputy returning officer;
- (d) takes a ballot out of the polling place;
- (e) without authority, takes, opens or otherwise interferes with a ballot box or books or packet of ballots or a ballot in use or used for the purpose of an election;
- (f) being a deputy returning officer, knowingly puts his initials on the back of any paper that is not a ballot, purports to be or is capable of being used as a ballot at an election; or
- (g) attempts to commit any offence mentioned in this section,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both.

False
information
to authorized
persons

97. Every person who knowingly furnishes false or misleading information to any person who by this Act is authorized to obtain information is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both.

Offences of
inducing un-
qualified
person to vote
or publishes
false state-
ment of with-
drawal of
candidate

98. Every person who,

- (a) induces or procures any person to vote knowing that that person has no right to vote; or
- (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both.

99. Every person who contravenes any of the provisions of this Act, for which contravention no penalty is otherwise provided, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. General offence

100.—(1) Where a candidate at an election is convicted of committing a corrupt practice, he is ineligible to be nominated and stand as a candidate at any election up to and including the next regular election, or to hold any office at the nomination of a municipal council or local board for four years following the date of the poll. Disqualification of persons guilty of corrupt practice

(2) If, when the candidate is convicted of committing a corrupt practice, the presiding judge finds that the act constituting in law a corrupt practice was committed without any corrupt intent, the candidate is not subject to the penalties and disabilities provided by subsection 1. Limitation

CORRUPT PRACTICES AND CONTROVERTED ELECTIONS

101.—(1) The validity of an election or of the election of any person to any office at such an election or whether or not any person is guilty of a corrupt practice respecting an election shall be tried and determined by an action commenced by issuing a writ in the county or district court for the county or district in which the municipality or the administrative or head office of the local board is situated. Validity of election, etc., determined by action

(2) Where the county or district court determines that a person has committed a corrupt practice it may, in addition to any other penalty or order, impose the penalties provided therefor under sections 92 to 100. Penalties for corrupt practice

(3) A candidate at an election or any elector entitled to vote at an election referred to in subsection 1, may commence an action under this section in relation to such election. Who may commence action

(4) No action shall be commenced after the expiration of ninety days following the date of the poll at the election referred to in subsection 1. Time for commencing action

102.—(1) Where not otherwise provided in this Act and subject to the rules of court, the practice and procedure of the county or district court apply to an action commenced under this Act. Practice and procedure

(2) The action shall be tried by a judge without a jury. Judge without jury

103.—(1) At the time of the commencement of an action, security shall be given on behalf of the plaintiff to be applied Security for costs

towards payment of all costs, charges and expenses, if any, that may become payable by the plaintiff, including the costs and charges of the clerk incurred in the publication of notices in the municipality in respect of the writ of the action or proceedings therein.

Idem (2) The security shall be in the amount of \$400 and shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario.

Abatement of action **104.**—(1) An action abates on the death of a sole plaintiff or the survivor of several plaintiffs.

Liability for costs (2) The abatement of an action does not affect any liability for costs previously incurred.

Substitution of plaintiff (3) On the abatement of an action any person who might have been a plaintiff may apply to a judge of the court or, during the trial, to the trial judge to be substituted as the plaintiff.

Substitution for unqualified person **105.** Where a plaintiff is not qualified to be a plaintiff in an action under this Act, the action shall not on that account be dismissed if within such time as a judge of the court or, during the trial, the trial judge allows for that purpose, another plaintiff is substituted and substitution shall be made on such terms and conditions as the judge considers proper.

Successful candidate guilty of corrupt practice **106.**—(1) Where it is determined that a successful candidate is guilty of a corrupt practice, the court may declare his election void and his office shall thereupon become vacant.

Unseating and seating of another elected candidate (2) Where the election of any person is declared void, the court may order that he be removed from office and, if it is determined that any other person would have been elected but for the corrupt practice that he be admitted to take his seat in the council or board or, if it is determined that no other person is elected, a new election shall be held.

Where commission of corrupt practice affected result of election (3) Where it is determined that any person is guilty of a corrupt practice and that the commission of the corrupt practice affected the result of the election, the court may declare the election void and a new election shall be held.

Where act of election official affected result of election (4) Where it is determined that any act or omission of an election official affected the result of an election, the court may declare the election void and a new election shall be held.

Compensation of candidates where election void (5) Where a new election is to be held, the court may make such order as it considers just, against any person who is found guilty of an offence or a corrupt practice under this Act, for

the compensation of candidates at the void election, not exceeding \$2,000 per candidate.

(6) The clerk of the court shall forward a copy of the judgment and the reasons for judgment to the clerk of the municipality. Judgment to clerk

107. If the court determines that a member was not duly elected, notwithstanding that an appeal from the decision is pending, he is not entitled to sit or vote on the council or board until the appeal is disposed of and the judgment of the court on appeal is received by the council or local board, but where the court determines that some other person was elected or is entitled to the seat, such person is, notwithstanding that an appeal is pending, entitled to take his seat and to sit and vote until the appeal is disposed of and the judgment of the court on appeal is received by the council or local board. Where election set aside and appeal entered

108. A new election shall not be held until after the expiration of the time limited for appeal from the determination of the court that the election is void and, if an appeal is brought, the election shall not be held pending the appeal. New election not to be held pending appeal

109.—(1) An appeal lies from the judgment of the county or district court to the Divisional Court in accordance with the rules of court. Appeal to Divisional Court

(2) The Divisional Court may give any judgment that ought to have been pronounced or may grant a new trial for the purpose of taking evidence or additional evidence and may remit the case to the trial judge or to another judge and, subject to any directions of the Divisional Court, the case shall thereafter be proceeded with as if there had been no appeal. Judgment or new trial

(3) An appeal lies from the decision of the trial judge to whom the case was remitted by the Divisional Court in accordance with the provisions of this section. Appeal from decision on new trial

110. Any person elected may, at any time after the election and before it is complained of, deliver to the clerk of the municipality a disclaimer, signed by him, to the following effect: Disclaimer before complaint

"I, A.B., hereby disclaim all right to the office of
for the.....of
in the county (or district) of
and all defence of any right I may

have to the same. Dated.....day of
....., 19.... A.B.”

Disclaimer
after
complaint

111. A person whose election is complained of, unless it is complained of on the ground of a corrupt practice on his part, may, within one week after service on him of the notice of motion, transmit by registered mail, or deliver to the judge of the court, and to the applicant or his solicitor, a disclaimer signed by him to the following effect:

“I, A.B., upon whom a notice of motion, authorized by *The Municipal Elections Act, 1972*, has been served for the purpose of contesting my right to the
office of....., in the county (or district)
of....., hereby disclaim the office, and
all defence of any right I may have to the same.

Dated.....day of....., 19....
A.B.”

Duplicate
of disclaimer
to clerk

112.—(1) A person disclaiming shall deliver a duplicate of his disclaimer to the clerk of the municipality, and the clerk shall forthwith communicate it to the council.

Operates as
resignation

(2) A disclaimer in accordance with section 110 or 111 operates as a resignation.

Relief from
costs

(3) A disclaimer in accordance with section 111 relieves the person making it from all liability for costs.

Regulations

113. The Minister may make regulations,

- (a) prescribing forms for the purposes of this Act; and
- (b) prescribing rules for the use of voting machines.

R.S.O. 1970,
cc. 288, 485,
repealed

114. *The Municipal Franchise Extension Act* and *The Voters' Lists Act* are repealed.

Commence-
ment

115. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

116. This Act may be cited as *The Municipal Elections Act, 1972*.

An Act respecting
Municipal Elections

1st Reading

April 20th, 1972

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(*Government Bill*)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act respecting Municipal Elections

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

(Reprinted as amended by the Administration of Justice Committee)

BILL 77

1972

An Act respecting Municipal Elections

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation


1. "advance poll" means a poll held under section 64;
2. "assessment commissioner" in relation to a municipality means the assessment commissioner appointed under *The Assessment Act* for the assessment region in which the municipality is situate; R.S.O. 1970,
c. 32
3. "assistant returning officer" means a person appointed by the clerk to assist him in the conduct of the election;
4. "assistant revising officer" means a person appointed by the clerk to assist him in the revision of the list of electors;
5. "candidate" means a person who is nominated for election to office in accordance with this Act and whose nomination is certified by the clerk;
6. "clerk" with respect to a municipality means the clerk of the municipality;
7. "constable" means a constable or a person appointed as a constable by the clerk or the deputy returning officer to maintain peace and order at an election;
8. "corrupt practice" means any act or omission in connection with an election in respect of which an offence is provided under the *Criminal Code* (Canada) or which is a corrupt practice under this Act; R.S.C. 1970,
c. C-34
9. "deputy returning officer" means a deputy returning officer appointed for a polling place under this Act.

10. "election" means an election governed by this Act;
11. "election assistant" means a person appointed by the clerk to assist in the conduct of an election;
12. "election year" means a year in which a regular election is held in accordance with the provisions of this Act;
13. "elector" means a person entitled under this Act to vote in an election;
14. "enumerated" means enumerated under *The Assessment Act*;
15. "local board" means a local board as defined in *The Municipal Affairs Act*;
16. "locality" means territory without municipal organization that is deemed a district municipality under *The Secondary Schools and Boards of Education Act* and *The Separate Schools Act*.
17. "Minister" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs;
18. "municipality" means a city, town, village or township;
19. "new election" means an election other than a regular election;
20. "nomination day" means the last day for filing nominations;
21. "oath" includes an affirmation;
22. "office" means an office, the election to which is governed by this Act;
23. "owner or tenant" means a person enumerated as owner or tenant of land separately assessed or liable to be separately assessed under *The Assessment Act*;
24. "polling day" means the day on which the poll is to be taken under this Act;
25. "polling list" means the list of electors for each polling subdivision revised and certified by the clerk;

R.S.O. 1970,
c. 118

R.S.O. 1970,
cc. 425, 430

R.S.O. 1970,
c. 32

26. "polling subdivision" means a polling subdivision established by the clerk under this Act;
27. "preliminary list" means a preliminary list of electors;
28. "prescribed" means prescribed by the Minister;
29. "public school elector" means an elector who is not a separate school elector;
30. "quorum" means a majority of the members of council or of a local board or the trustees of a police village, as the case may be;
31. "regular election" means an election required to be held biennially under section 10 of this Act;
32. "residence", and similar expressions used in relation to a person, means his true, fixed, permanent home or lodging place to which whenever he is absent he has the intention of returning, subject to the following rules:
 - (a) The place where a person's family resides shall be his residence unless he takes up or continues his residence at some other place with the intention of remaining there, in which case he shall be deemed to be a resident of such other place.
 - (b) The place where a person occupies a room or part of a room as a regular lodger or to which he habitually returns not having any other permanent lodging place, shall be deemed to be his residence;
33. "scrutineer" means any person appointed as a scrutineer by a candidate under section 6 or by a council under section 7;
34. "separate school elector" means an elector who is a Roman Catholic separate school supporter or who is a Roman Catholic and the wife or husband of such supporter and any person entitled to be a separate school elector under *The Separate Schools Act*.  R.S.O. 1970, c. 430

APPLICATION OF ACT

2.—(1) Notwithstanding any other general or special Act, ^{Application of Act} but subject to subsection 2, this Act applies to and governs all elections,

(a) to the offices of,

- (i) member of the council of a municipality,
- (ii) member of the council of a regional municipality where such office is required to be filled by a vote of the electors of an area municipality,
- (iii) trustee of a police village,
- (iv) member of a local board whose members are to be elected at elections required by law to be conducted by the same officers and in the same manner as elections of members of the council of a municipality;

(b) to obtain the assent of electors on any by-law required or authorized by law to be submitted for their assent at an election; and

(c) to obtain the opinion of the electors on any question required or authorized by law to be submitted to the electors at an election except a question under *The Liquor Licence Act.*

R.S.O. 1970,
c. 250

Application
to newly
created
regional
municipalities

(2) This Act does not apply to the first elections of the members of the council of a regional municipality or an area municipality therein or of the local boards thereof where the Act creating the regional municipality otherwise provides.

ELECTION OFFICIALS

Returning
and
revising
officer

3.—(1) Subject to subsections 2 and 3, the clerk of a municipality is the returning officer and revising officer for the purpose of the conduct of elections within the municipality or a part thereof.

Returning
officer in
police
village

(2) For the purpose of elections of trustees of a police village, the clerk of the municipality in which the police village is located shall be the returning officer for the election and where the police village is located in two or more municipalities,

- (a) the nominations for trustees shall be filed with the clerk of the municipality having the largest number of electors of the police village who shall send to the clerk of each municipality concerned by registered mail within forty-eight hours after the closing of nominations the names of the candidates; and

- (b) the clerk of each other municipality in which part of the police village is located shall be the returning officer for the vote to be recorded in his municipality and he shall forthwith report the vote recorded to the returning officer referred to in clause *a* who shall prepare the final summary and announce the vote.

(3) The clerks of municipalities to which subsections 21, 25 and 27 of section 38 of *The Secondary Schools and Boards of Education Act* and subsections 19 and 21 of section 90 of *The Separate Schools Act* apply shall perform the duties as returning officers for the purposes of an election under this Act as are specified in those provisions. Clerks, duties in relation to school boards
R.S.O. 1970, c.425, 430

4.—(1) The clerk of every municipality shall for the purposes of an election appoint a deputy returning officer and a poll clerk for each polling place established in the municipality and, as far as is practicable, the deputy returning officers and poll clerks shall be appointed for polling places for the polling subdivisions in which they reside. D.R.O. and poll clerk

(2) If a deputy returning officer or poll clerk signifies to the clerk that he will not act, the clerk shall appoint another person to act in his place. Where unable to act

(3) If a deputy returning officer or poll clerk does not attend at the opening of the poll, the clerk shall appoint another person to act in his place. Non-attendance of D.R.O., poll clerk

(4) If a deputy returning officer through illness or for any other reason becomes unable to perform his duties on polling day, the poll clerk shall perform his duties and exercise all his powers unless the clerk appoints some other person as deputy returning officer for the polling place. Poll clerk to act for D.R.O.

(5) The clerk may appoint election assistants, assistant returning officers, and assistant revising officers to assist him in the performance of his duties and provide for such clerical and other assistance as is necessary for such purpose. Assistants

(6) The poll clerk and an election assistant, if any, shall assist the deputy returning officer in the performance of the duties of his office and shall obey his orders. Duties of poll clerk

(7) Every deputy returning officer, poll clerk, election assistant, assistant returning officer, assistant revising officer, scrutineer, constable and other person authorized to attend at a polling place shall, before entering upon his duties, take and subscribe an oath in the prescribed form. Oath

Oath of
D.R.O.

(8) The appointment and oath of the deputy returning officer under subsection 7 shall be endorsed upon or attached to the poll book for the polling place for which he is appointed.

Who may
administer
oaths

5.—(1) Except where otherwise provided, an oath may be administered by any person authorized by law to administer oaths in the Province of Ontario.

Idem

(2) The clerk may administer any oath required by this Act, and deputy returning officers and poll clerks may administer any such oath except an oath to be taken by the clerk.

No charge

(3) Every person administering an oath under or for the purposes of this Act shall administer the oath gratuitously.

Scrutineers
appointed by
candidate

6.—(1) Each candidate may appoint such number of persons who are at least sixteen years of age as he considers advisable as scrutineers to represent him in a polling place and at the counting of votes under this Act.

Limit on
number
present

(2) Not more than one scrutineer representing each candidate may be present for any of the purposes specified in subsection 1 at any time.

Scrutineers
appointed
by council

7.—(1) The council of a municipality may, if requested to do so, by resolution appoint as scrutineers in relation to voting on any by-law or question submitted to the electors at an election two persons to attend at the final summing up of the votes by the clerk and two persons to attend at each polling place, one such person in each case on behalf of the persons interested in and desirous of promoting the proposed by-law or voting in the affirmative on the question and the other such person on behalf of the persons interested in and desirous of opposing the proposed by-law or voting in the negative on the question.

Production of
appointment

(2) A person appointed as a scrutineer under this section before being admitted to a polling place shall, if so requested, produce and show his appointment to the deputy returning officer for the polling place.

COSTS OF ELECTION

Cost of
election

8.—(1) Except where otherwise specifically provided by this or any other special or general Act, the cost of an election shall be borne by the municipality in which it is held.

Expenses
of officers

(2) The reasonable expenses incurred by a clerk or any other officer for printing, providing ballot boxes, ballot papers, materials for marking ballot paper, and balloting compart-

ments, and for the transmission of packets, and reasonable fees and for allowances for services rendered under this Act or otherwise on account of an election shall be paid by the treasurer of the municipality to the persons entitled thereto.

(3) Where the clerk of a municipality is required to conduct an election of members of a local board other than at a regular election, the board shall forthwith after its organization reimburse the treasurer of the municipality for the cost of employing deputy returning officers, poll clerks and other election officials and for the reasonable expenses incurred by the clerk or any other officer of the municipality for advertising the times and places for nomination and of polls, for printing, for providing ballot boxes, ballot papers, materials for marking ballot papers, and balloting compartments, for the transmission of packets, and for reasonable costs including the cost of printing and distribution of but not preparation otherwise of the polling list.

Expenses of
by-election
of local
board

TERM OF OFFICE

9.—(1) Notwithstanding any other general or special Act and except where otherwise specifically provided in this Act, the term of office of all offices, the election to which is governed by this Act, shall be two years, commencing on the first day of January in the year following an election year.

Two-year
term

(2) The holders of offices hold office until their successors are elected and the newly elected council or local board is organized.

Until new
council
organized

BIENNIAL ELECTIONS

10.—(1) Subject to subsections 2 and 3, an election shall be held in accordance with this Act in each municipality in the year 1972 and in every second year thereafter for the purpose of electing persons to offices.

Election
year

(2) Where the term of office of a member of a council or of a local board terminates at the end of the year 1973, no election shall be held under this Act for that office in the year 1972, but an election for such office shall be held in accordance with this Act on the first Monday in December, 1973, and the persons elected at such election shall be elected for the year 1974 only.

Where
present
term
terminates
in 1973

(3) Where the term of office of a member of a council or of a local board elected before the coming into force of this Act terminates at the end of the year 1974, no election shall be held for that office in the year 1972.

where
present
term
terminates
in 1974

Vote on
question,
etc.

(4) Where a by-law requires the assent or a question is authorized or required to be submitted to obtain the opinion of the electors, the vote thereon shall be taken at the next regular election unless otherwise provided by order of the Ontario Municipal Board.

POLLING DAY

Polling
day

11. Polling day in a regular election shall be the first Monday in December in each election year.

QUALIFICATION OF ELECTORS

Electors,
resident

12. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and if, at any time during the period of enumeration under section 18, he is,

- (a) resident in such municipality;
- (b) a Canadian citizen or other British subject; and
- (c) of the full age of eighteen years.

Non-
resident

13. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and is not resident in such municipality at any time during the period of enumeration under section 18 but is at any time during such period,

- (a) the owner or tenant of land in the municipality or the spouse of such an owner or tenant;
- (b) a Canadian citizen or other British subject; and
- (c) of the full age of eighteen years.

Evidence of
citizenship

14. For the purpose of sections 12 and 13, a statutory declaration by a person claiming that he is a Canadian citizen or other British subject is *prima facie* proof of the fact declared to.

QUALIFICATION OF ELECTORS TO VOTE ON MONEY BY-LAWS

Who may
vote on
money
by-laws

15. Every person entitled to be an elector in a municipality under section 12 or 13 is entitled to be an elector to vote on a money by-law submitted for the assent of the electors of the municipality if, he is,

- (a) the owner of land assessed in the municipality; or
- (b) the tenant of land assessed in the municipality under a lease which extends for the time for which the debt or liability to be created or in which the money to be raised by the proposed by-law is payable or for twenty-one years and under which he covenants to pay all municipal taxes in respect of the land other than local improvement rates and he makes and files with the clerk not later than the last day for making complaints for revision of the preliminary list a declaration stating that he is such a tenant.

16.—(1) A corporation that is the owner of land assessed in a municipality on the last assessment roll or is a tenant of such land under a lease that complies with the requirement of clause *b* of section 15 is entitled to nominate a person who is qualified to be an elector under section 12 or 13, to be an elector to vote on a proposed money by-law submitted for the assent of the electors of the municipality. Corporate nominee

(2) A corporation that is the owner of residential property in a municipality consisting of units or apartments that are owned on a co-operative basis may nominate a person who is qualified to be an elector under section 12 or 13, to be an elector to vote on proposed money by-laws submitted for the assent of the electors in the municipality for each such unit or apartment that is separately assessed on the latest assessment roll for the municipality. Idem

(3) Where a corporation entitled to appoint a nominee to vote on its behalf desires to vote on a proposed money by-law, it shall, not later than the day for filing complaints for the revision of preliminary lists as hereinafter provided, file with the clerk of the municipality an appointment in writing of a person to vote on a proposed money by-law as its nominee and on its behalf. Appointment to be filed

POLLING SUBDIVISIONS

17.—(1) Subject to the provisions of subsection 2, the clerk shall divide the municipality into polling subdivisions and shall not later than the first day of June in an election year inform the assessment commissioner of the boundaries of each subdivision. Polling subdivisions

- (2) A polling subdivision shall not, Size
 - (a) so far as is practicable, contain more than 350 electors; or

- (b) extend beyond the boundaries of one ward or of an electoral district established for the purposes of the election of members to the Assembly.

PREPARATION OF PRELIMINARY LIST OF ELECTORS

Preliminary
list of
electors

18. An assessment commissioner shall, during the period commencing on the Tuesday following the first Monday in September and ending on the second Tuesday of October in an election year, from an enumeration taken during that period, compile for each polling subdivision in each municipality and locality in his assessment region a list containing the name and address of each person who during such period meets the requirements for an elector under section 12 or 13 and such list shall signify opposite the name of an elector,

- (a) who does not reside in the municipality, that he does not so reside;
- (b) who is enumerated as a Roman Catholic separate school supporter, that he is a separate school elector;
- (c) who is a Roman Catholic and the spouse of a Roman Catholic separate school supporter, that such spouse is a separate school elector;
- (d) who is enumerated as a separate school elector in accordance with *The Separate Schools Act*, that he is a separate school elector;
- (e) who is an owner or tenant of land in the municipality, that he is such an owner or tenant.

R.S.O. 1970,
c. 430

For polling
subdivision
where no
wards

19.—(1) In a municipality or locality that is not divided into wards, the name of an elector shall be entered on the preliminary list,

- (a) for the polling subdivision in which the elector resides; or
- (b) if the elector does not reside in the municipality or locality, for the polling subdivision in which he or his spouse is owner or tenant of land.

For one
polling
subdivision
only

(2) The name of an elector shall not be entered under this section on the preliminary list for more than one polling subdivision.

For polling
subdivision
where wards

20.—(1) In a municipality that is divided into wards, the name of an elector shall be entered in the preliminary list,

- (a) where he resides in the municipality, for the polling subdivision in which he resides, or;
- (b) where he does not reside in the municipality, for a polling subdivision of a ward in which he or his spouse is the owner or tenant of land.

(2) The name of an elector shall not be entered under this section on the preliminary list for more than one polling subdivision.

21. The assessment commissioner shall deliver the list of electors prepared by him under sections 18, 19 and 20 to the clerk and, in respect of a locality, to the secretary of the school board on or before the second Tuesday of October in an election year.

PRELIMINARY LIST OF ELECTORS

22. Immediately after receipt of the list of electors from the assessment commissioner, the clerk shall cause the list to be printed or reproduced and such list shall be the preliminary list of electors.

REVISION OF PRELIMINARY LIST OF ELECTORS

23.—(1) Immediately after the printing or reproduction of the preliminary list of electors, the clerk shall,

- (a) fix the last day for filing with the clerk complaints for revision of the list for the purpose of making additions or corrections to or deletions from it and the places at which and the times when revision of the list will be commenced;
- (b) post one copy of the list in a conspicuous place in his office and one copy of the list for each polling subdivision in a conspicuous place in the polling subdivision for which it is prepared; and
- (c) publish notice in a newspaper having general circulation in the municipality, of the date of the posting of the list, the last day for filing complaints, and the places and times at which the revision of the list will be commenced and, where there is no such newspaper, the notice shall be published in such manner as the clerk may direct and shall be posted in at least two conspicuous places in the municipality.

(2) The day of posting copies of the preliminary list and of publishing the notice under subsection 1 shall be at least eight days before the last day for filing complaints.

Notice
affixed
to list

(3) The clerk shall affix to the outside or cover of each copy of the preliminary list of electors for an election a notice in prescribed form, over his name,

- (a) stating that the list is a preliminary list of all electors for the election prepared as required by this Act;
- (b) setting forth the date on which the list was posted up in the office of the clerk;
- (c) giving notice to all electors to examine the list for the purposes of making additions or corrections to or deletions from the list; and
- (d) stating the last day for filing complaints concerning such additions, corrections or deletions.

Copies
of list

(4) At the time of posting a notice under subsection 1, the clerk shall deliver or mail one copy of the preliminary list to,

- (a) the assessment commissioner;
- (b) every member of the council of the municipality and every trustee of a police village all or part of which is in the municipality;
- (c) the secretary of every local board the members of which are required to be elected at an election to be conducted by the clerk;
- (d) the clerk of the council of the county or of the district, regional or metropolitan municipality in which the municipality is situate;
- (e) the clerk of the municipality responsible for conducting the elections in any combined area for school board purposes;
- (f) the member of the House of Commons and the member of the Assembly representing the electoral district in which the municipality or any part thereof is situate.

Candidates
entitled
to copies

(5) Every candidate for any office in an election is entitled to be furnished by the clerk with two copies of the preliminary list of electors entitled to vote in an election to such office.

Revision
of list

24.—(1) The clerk or an assistant revising officer shall attend at the revision of the preliminary list and shall con-

tinue to do so from day to day or as required until all complaints filed before the last day for filing complaints for revision of the list have been disposed of.

(2) Notwithstanding that the time for filing complaints for revision of the preliminary list under section 23 has not expired, the clerk may proceed to consider such complaints as from time to time may be received and may determine and dispose of them. When complaints may be considered

25.—(1) A person whose name has not been included in the preliminary list for a polling subdivision in a municipality or whose name has been included therein but the information relating to him set out therein is incorrect or whose name has been included therein as a non-resident and who is qualified to be an elector in more than one ward in the municipality may, personally or by his agent, apply to the clerk or assistant revising officer of the municipality on or before the date fixed by the clerk as the last day for filing complaints for revision of the list to have his name included on the list or to have such information corrected or to have his name deleted from the list and to have it entered in the list of another ward in which he or his spouse is the owner or tenant of land. Application to enter name in list or correct information

(2) Every person applying under this section shall sign an application in the prescribed form in which all the information shall be sufficiently filled in, either by the applicant personally or by the clerk or assistant revising officer at the applicant's request, and before entering his name on the list or before correcting the preliminary list, as the case may require, the clerk or assistant revising officer shall satisfy himself that the applicant understands the effect of the statements in the application and that he is an elector entitled to have his name included on the list or to have the list corrected pursuant to his request. Application form

(3) When the language of an applicant under this section is not understood by the clerk or assistant revising officer, an interpreter provided by the applicant may be sworn and may act, but in the event of inability to secure an interpreter, the application may be refused. Interpreter

(4) If it appears to the clerk or assistant revising officer that an applicant under this section understands the effect of the statements in the application and that the applicant is an elector whose name should be included in the polling list or that the amendment thereof that he requests should be made, he shall certify accordingly by signing the application. Decision to amend list

Refusal to
amend list

(5) If, in the opinion of the clerk or assistant revising officer, the statements made by an applicant in his application under this section do not show that the applicant is an elector entitled to have his name included in the polling list or to have the list amended as requested, he shall inform the applicant that his application is refused, stating the reasons for such refusal, which reasons he shall endorse on the application form.

Application
for deletion
of name

26.—(1) At any time after the posting of the preliminary list of electors for a municipality and until the last day for filing complaints for revision thereof, any person may file with the clerk a complaint, in the prescribed form, for deletion from the list of the name of a person who is not entitled as an elector to have his name entered thereon.

Notice to
person
where name
objected to

(2) The clerk, upon receipt of a complaint under this section, shall forthwith cause to be served personally on or sent by registered mail to the person concerning whom the complaint is made at the address given in the preliminary list and at such other address, if any, as may be mentioned in the complaint, a notice requiring such person to appear in person or by his representative before him on a day to be fixed in the notice.

Copy of
complaint to
be served

(3) A copy of the complaint shall accompany a notice served or sent under this section.

Decision of
clerk, etc.

(4) On the day for the hearing fixed in a notice given under this section, the person filing the complaint shall attend before the clerk or assistant revising officer and establish to his satisfaction the validity of such complaint and the clerk or assistant revising officer after receiving an explanation of the facts alleged and after hearing what is alleged by the person concerning whom the complaint was made, may delete the name from the preliminary list if he is satisfied of the validity of the complaint.

Where person
objected to
does not
appear

(5) Where the person concerning whom a complaint has been made under this section does not attend before the clerk or assistant revising officer on the day of hearing fixed in the notice and the clerk or assistant revising officer is satisfied that due notice of complaint has been given to the person or that he could not be found and the registered notice could not be delivered, the clerk or assistant revising officer may delete the name of such person from the preliminary list of electors but shall not do so except upon evidence under oath which satisfies him that the name should not have been included in the list.

27. Subject to section 31 or 54, the decision of the clerk or assistant revising officer to enter on or delete the name of a person as an elector from the preliminary list of electors is final for the purposes of this Act. Decision final

28. Upon determination of all complaints for revision of the preliminary list of electors for a municipality filed on or before the last day for filing complaints for revision thereof, the clerk shall compile a statement of additions and changes to and deletions from the list and shall send a copy of such statement so certified to each person specified in subsections 4 and 5 of section 23. Statement of changes

POLLING LIST

29.—(1) After compilation of the statement of additions, changes and deletions required under section 28, the clerk shall prepare the polling list of electors for each polling subdivision in his municipality by making the appropriate changes in the preliminary list in accordance with the statement and shall certify the list as so revised. Polling list

(2) The clerk shall, in preparing the polling list of electors under subsection 1, enter after the name of every elector who is a tenant and who has filed a declaration under section 15 that he is entitled to be an elector to vote on a money by-law the words "Entitled to vote on the by-law" and an elector shown as a tenant on the list without such words added after his name is not entitled to vote on the by-law. Tenants entitled to vote on by-law

(3) Where a corporation has appointed a nominee to vote on its behalf on a proposed money by-law in accordance with section 16, the clerk shall enter the name of the nominee in the polling list for the polling subdivision in which the corporation has its chief office in the municipality as a nominee of a corporation entitled to vote on the by-law in such polling subdivision and such nominee shall be deemed to be an elector so entitled to vote. Nominee of corporation entered in list

30. Except as provided in sections 31, 49 and 54 no person is entitled to vote at an election unless his name appears on the polling list certified under section 29 for the polling subdivision in which he tenders his vote. Only persons on list entitled to vote

31.—(1) If a person whose name is omitted from a polling list certified under section 29, at any time after preparation of the polling list and prior to the closing of the poll, satisfies the clerk of the municipality on oath that he was during the period of enumeration entitled to be an elector under section 12 or 13 and to have his name entered on a polling list for a polling subdivision in the municipality, the clerk may issue a Entry of name on list by D.R.O.

certificate in the prescribed form authorizing the deputy returning officer for such polling division to enter the name of the elector on the polling list for the subdivision and to permit such person to vote, but such vote must be cast before the closing of the poll.

Idem

(2) Where the name of a person is omitted from the polling list as finally revised and such person was during the period of enumeration otherwise qualified to be entered on the polling list except that he was not a Canadian citizen or other British subject or of the full age of eighteen years, if such person produces for the inspection of the clerk,

(a) where he was not a Canadian citizen or other British subject, his certificate of naturalization or other conclusive evidence that he has become a Canadian citizen or other British subject; or

(b) where he was not eighteen years of age, his birth certificate or other conclusive evidence that he has become eighteen years of age,

the clerk may issue a certificate authorizing the proper deputy returning officer to enter the name of such person on the polling list to entitle him to vote as if his name had been entered thereon before the list was revised.

Certificate
to be
produced

(3) A person is not entitled to vote under this section unless at the time he requests a ballot he produces and files with the deputy returning officer the certificate given by the clerk under subsection 1.

Copy to
assessment
commis-
sioner

(4) The clerk shall furnish a copy of each certificate issued under this section to the assessment commissioner.

NOMINATIONS

Who may be
nominated

32. Any person who is qualified to hold an office under the Act constituting the office may be nominated as a candidate for such office.

Nomination
day

33.—(1) Nomination day for a regular election shall be Monday, the twenty-first day before polling day.

Period for
nomination

(2) The period during which candidates in an election may be nominated shall be the four days immediately preceding nomination day and until 5 o'clock in the afternoon of nomination day.

Notice of
nomination
period

(3) The clerk shall publish, at least six days prior to the commencement of the period during which candidates in an

election may be nominated, notice of the time of commencement and closing of such period and of the offices for which candidates in the election may be nominated in a newspaper having general circulation in the municipality and, where there is no newspaper having a general circulation in the municipality, the notice shall be published in such manner as the clerk may direct and shall be posted in at least two conspicuous places in the municipality.

34.—(1) A candidate may be nominated for an office by the ^{How} ^{nominated} filing, during the period in which candidates may be nominated, in the office of the clerk during his normal office hours of a nomination paper in prescribed form, which,

- (a) shall be signed by at least ten electors whose names are entered in the polling lists of electors entitled to vote in an election to such office;
- (b) shall state the name, occupation and address of the candidate in such manner as will identify him and the office for which he is nominated; and
- (c) shall state the name and address of each elector signing the nomination paper and, where the office for which the candidate is nominated is a member of a school board, that such nominator is a public school elector or a separate school elector, as the fact is.

(2) No nomination is valid unless there is filed with the ^{Consent and} ^{declaration} ^{to be filed} nomination paper a consent in writing to the nomination and a declaration of qualification in the prescribed form by the person nominated.

(3) A nomination paper nominating a candidate for an office ^{Public} ^{school} the holder of which is required to be elected by public school ^{nominators} electors shall be signed by public school electors only.

(4) A nomination paper nominating a candidate for an office ^{Separate} ^{school} the holder of which is required to be elected by separate school ^{nominators} electors shall be signed by separate school electors only.

(5) Each candidate for election to an office shall be ^{Separate} ^{nomination} ^{papers} nominated by a separate nomination paper, but an elector may sign the nomination papers of different candidates.

(6) After a nomination paper is filed with the clerk it shall ^{Clerk} ^{to keep} ^{nomination} ^{paper} remain in the possession of the clerk.

(7) The onus is on the person nominated for election to an ^{Onus on} ^{person} ^{nominated} office to file a *bona fide* nomination paper.

Endorsation
by clerk

35.—(1) Where a nomination paper is filed in the office of a clerk, the clerk or his assistant returning officer shall endorse upon it the date and time of its filing.

Certificate
of clerk

(2) Where a nomination paper for a candidate for an office is filed in the office of a clerk prior to nomination day, the paper shall forthwith be examined by the clerk and, if he is satisfied that the requisite number of the nominators whose signatures appear on the nomination paper are electors entitled to vote for the office, he shall so certify in writing.

Posting

(3) As the nomination papers are certified by the clerk he shall cause the name, occupation and address of each candidate nominated and the office for which the candidate is nominated to be posted up in his office or other conspicuous place open to inspection by the public.

Where
filed on
nomination
day

(4) Where the nomination paper for a candidate for an office is filed in the office of a clerk on nomination day and before the time fixed for the close of nominations,

(a) the clerk shall accept the nomination paper and cause the name of the person nominated to be posted up in accordance with subsection 3;

(b) if, on examination of the nomination paper prior to 5 o'clock in the afternoon on the day following nomination day, it appears to the clerk that the requisite number of nominators whose signatures appear on the nomination paper are not electors entitled to vote for the office, he shall reject the nomination and give notice of the rejection immediately by registered mail to the person nominated and all candidates for that office, but if he is satisfied that the nominators meet such requirements, he shall so certify in writing.

Certification
by clerk

(5) Certification by the clerk in accordance with subsection 2 or 4 with respect to a nomination paper shall be conclusive evidence of the facts certified.

List of
candidates

(6) The clerk shall establish and maintain in his office a list setting out the name and residence of every candidate whose nomination has been certified under this section for the respective offices for which candidates may be nominated in the order of certification and copies of this list shall be prominently displayed in one or more locations immediately prior to the time fixed for the closing of nominations.

DEATH OF A CANDIDATE

36. If as a result of a candidate nominated for election to an office dying before the close of the poll for the election, Election on death of candidate

- (a) a person would be elected by acclamation to such office, the election to such office is void and a new election shall be held to fill such office; or
- (b) no person would be elected by acclamation to such office, the name of the deceased candidate shall be omitted from the ballots or if the ballots have already been printed, the clerk shall cause notice of the death of the candidate to be posted up in a conspicuous place in every polling place and the election shall be proceeded with as if the deceased candidate had not been nominated.

WITHDRAWAL OF NOMINATIONS

37.—(1) A person nominated as a candidate in an election may withdraw his nomination by instrument in writing, verified by his affidavit and delivered to the clerk before 5 o'clock in the afternoon of the day following nomination day. Withdrawal of nomination

(2) Where a person has been nominated for more than one office, he may withdraw in respect of one or more offices for which he is nominated by filing his withdrawal in writing with the clerk in his office before 5 o'clock in the afternoon of the day following nomination day and in default he shall be deemed to be nominated for the office for which he was first nominated and to have withdrawn his nomination for any other office. Where nominated in more than one office

ACCLAMATIONS

38.—(1) If no more candidates are nominated for any office than the number to be elected, the clerk shall forthwith after 5 o'clock on the afternoon of the day following nomination day declare that candidate or those candidates duly elected. Acclamation

(2) If more candidates are nominated for an office than the number to be elected but one or more candidates withdraws his nomination so that the number remaining is no more than the number required to be elected, the clerk shall forthwith after 5 o'clock on the afternoon of the day following nomination day declare the remaining candidate or candidates to be duly elected. Idem

Vacancy

(3) If the number of candidates declared to be elected to an office under subsection 1 or 2 is less than the number to be elected to such office so that there is a vacancy, a new election shall be held to fill the vacancy.

Where quorum not elected

(4) Where in any election the total number of members of the council of a municipality or of a local board, as the case may be, declared elected under this section and those elected as a result of the poll in the election is less than a quorum of the council or of the local board, the council or local board in office for the preceding year shall continue in office until a new election under subsection 3 is held and the number of members of the council or local board equals or exceeds the quorum.

NOTICE OF POLL**Poll required**

39.—(1) Where more candidates are nominated for election to an office than the number required to fill that office, the clerk shall hold a poll to elect the holder of that office.

Notice of poll

(2) Notice of the time for the holding of the poll in an election, including the advance poll, shall be given by the clerk forthwith after it has been determined that a poll is required, by publishing in a newspaper having general circulation in the municipality and where there is no such newspaper, the notice shall be published in such manner as the clerk may direct, and shall be posted in at least two conspicuous places in the municipality.

VOTING BY BALLOT**Voting by ballot**

40.—(1) Where a poll is held in an election, the votes shall be given by ballot in prescribed form.

Voting machines

(2) In place of using ballot papers under this Act, with approval of the Minister, the council of a municipality may by by-law authorize the use at an election of voting machines for one or more polling subdivisions.

PREPARATION AND FORM OF BALLOT**Ballots**

41.—(1) A clerk who is required to hold a poll under section 39 shall prepare and cause to be printed a sufficient number of ballots in the prescribed form for use in the election.

Nomination of candidate must be certified

(2) The name of a person shall not be included in a ballot as a candidate for office unless his nomination as a candidate for such office has been certified by the clerk under section 34.

(3) Subject to subsection 5, the names of the candidates shall be shown on a ballot in order of their surnames alphabetically arranged, with given names preceding the surnames, and with the surnames in bold type and the occupation of the candidate shall be stated. Order of names

(4) Where there are two or more candidates for election to an office whose given and surnames and occupations are identical or so nearly identical as to create the possibility of confusion, the address of all candidates for election to such office shall be shown on the face of the ballot for such office immediately under their names and in sufficient detail as to identify each candidate. Where addresses to be shown

(5) Except as provided in subsection 4, no identification such as a title, honour, decoration or degree shall be included with any candidate's name on a ballot to be used in an election, but a name commonly called a nickname or any other name by which a candidate is commonly known may be used on the ballot as the name or part of the name of the candidate. Nicknames and titles

(6) There shall appear on the ballot to the right of each candidate's name a circle or a circular space suitable for the marking of the ballot. Space for indicating vote

(7) All ballots for election to the same office shall be of the same description and as nearly alike as possible and the names and occupations, and the addresses if given, of the candidates shall be in one colour and the remainder of the face of the ballot shall be another colour, but different colours may be used for ballots to be used for election to different offices. Ballots for same office to be alike

(8) A ballot may contain instructions as to the number of candidates for which a voter may vote in the following words: "You are entitled to vote for candidates for this office". Number for which vote may be given

(9) The ballot papers for voting to obtain the assent or the opinion of electors on any by-law or question shall be in the prescribed form. Ballots re questions

42.—(1) For an election in a municipality in which the members of council are elected by wards, there shall be prepared one set of ballots for all the polling subdivisions containing the names of the candidates for the office of mayor, another set for all the polling subdivisions containing the names of the candidates for the office of reeve, or reeve and deputy reeve, and another set for each ward containing the names of the candidates for the office of alderman or councillor for the ward. Wards in municipality

General
vote in
city or town

(2) For an election in a city or town in which the members of council are elected by general vote, there shall be prepared for all the polling subdivisions one set of ballots containing the names of the candidates for the offices of mayor, or mayor and reeve, or mayor, reeve and deputy reeve, and another set containing the names of the candidates for the office of alderman or councillor.

Borough in
Metro.
Toronto

(3) For an election in a township that constitutes a borough within The Municipality of Metropolitan Toronto, one set of ballots shall be prepared for all the polling subdivisions containing the names of the candidates for the office of mayor, another set of ballots for all the polling subdivisions containing the names of the candidates for the office of controller and another set for each ward containing the names of the candidates for the office of alderman.

Village or
township

(4) For an election in a village or township there shall be prepared one set of ballots containing the names of the candidates for the office of reeve or of reeve and deputy reeve, and for the office of councillor.

By-law
providing
for separate
sets

(5) The council of a town may by by-law provide that the ballots for an election to the offices of mayor, reeve and deputy reeve shall be prepared in separate sets and, the council of a village or township may, by by-law provide that the ballots for an election to the offices of reeve, deputy reeve and councillor shall be in separate sets.

When to be
passed

(6) A by-law for the purposes mentioned in subsection 5 shall be passed not later in the election year than the first day of November and remains in force until repealed, and while in force the prescribed ballots shall be prepared accordingly.

Separate sets
for
controller,
local board,
by-laws, etc.

(7) There shall also be separate sets of ballots,

(a) containing the names of the candidates for the office of,

i. controller,

ii. member of a local board,

iii. trustee of a police village, or

iv. member of the council of a regional municipality;

(b) for obtaining the assent of the electors on any by-law or the opinion of the electors on any question required or authorized to be submitted to them at an election.

(8) Where more than one by-law or question is to be submitted to the electors at one election, all of such by-laws or questions may be placed on one ballot paper. More than one by-law, etc.

43.—(1) In place of using separate ballots under this Act, the council of a municipality may, by by-law passed and approved by the Minister prior to the first day of November in an election year, authorize the use at a municipal election of composite ballots in such form subject to subsections 1 to 8 of section 41, as the by-law prescribes. Composite ballots

(2) A composite ballot may contain,

Contents

(a) the names of candidates for the offices of member of council, member of a school board, member of a public utility commission or member of any other board, commission or body the members of which are required to be elected by the electors of the municipality or for any one or more of such offices; and

(b) any by-law or question authorized or required by law to be submitted to the electors for their assent or opinion.

(3) No elector shall be given a composite ballot containing the names of candidates for an office or containing a question or by-law for which he is not entitled to vote.

Not to be given to elector not entitled to vote for office on ballot

(4) A by-law passed under this section remains in force from year to year until repealed.

By-law in force until repealed

POLLING PLACES

44.—(1) Subject to section 45, the clerk shall provide for each election at least one polling place for each polling subdivision in a place that is most central or most convenient for the electors and is furnished with light and heat and such other accommodation and furniture as may be required, but the polling place may be provided outside the limits of the polling subdivision. Polling place

(2) Every polling place for an election in a municipality shall be situate in the municipality, except that where a polling subdivision in a township adjoins an urban municipality, the polling place for the polling subdivision may be within the limits of the urban municipality. Idem

(3) Every polling place shall be furnished with compartments in which voters may mark their ballots without other persons being able to see how they are marked and it is the duty of the clerk and the deputy returning officer respectively to Compartments

ensure that a sufficient number of compartments is provided at each polling place.

United
subdivisions

(4) The clerk may unite two or more adjoining polling subdivisions and provide one polling place for the united subdivisions.

Additional
places

(5) The clerk may provide such additional polling places in any polling subdivisions as are required having regard to the extent of the subdivision, the remoteness of any number of its voters from the polling place and number of voters that may conveniently vote at one polling place.

Designation
of places

(6) Where there are two or more polling places in a polling subdivision, each polling place shall be designated by the numbers of the lots and concessions or the numbers and names of the streets at which the electors reside or that designate the properties in respect of which the electors are qualified to vote therein, or by the initial letters of the surnames of the electors who are qualified to vote therein, that is to say, A to M and N to Z, or as the case may be, and an elector is entitled to vote at the appropriate polling place designated accordingly.

Notice of
location of
polling
place

(7) In municipalities having more than 5,000 electors, the clerk shall mail or cause to be delivered to each dwelling unit in the municipality a notice advising the elector or electors therein of the location of the polling place in which that elector or those electors is or are to vote.

Polling
places in
institutions

45.—(1) Where in a municipality there is situate a hospital or other institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or the armed forces of any member of the Commonwealth, or who are blind or deaf, a Workmen's Compensation hospital, a home for the aged, a nursing home or other institution of twenty beds or more, in which chronically ill or infirm persons reside, a polling place shall be provided in such institution or upon the premises, and for the purpose of polling, the institution shall be deemed to be a polling place, and every person resident in the institution who is entered on the polling list shall vote at such polling place.

Attendance
upon patients
to take
vote

(2) Where a patient of such a hospital or other institution is bed-ridden or is unable to walk, it is lawful for the deputy returning officer and poll clerk with the candidates or their scrutineers to attend upon such person for the purpose of receiving his ballot, but no candidate or scrutineer shall be present where the ballot of any such voter is marked under section 61.

(3) When every person whose name is entered on the polling list for a polling place governed by this section has voted, the deputy returning officer for the polling place may close the poll at such polling place, but the vote cast at such polling place shall not be counted until after the close of the regular polling places. ^{Closing of poll}

SUPPLIES AND EQUIPMENT FOR POLLING PLACES

46.—(1) The clerk shall, before polling day, cause to be ^{Supplies for polling place} delivered to every deputy returning officer in his municipality,

(a) a ballot box for his polling place;

(b) a sufficient number of ballots to supply the electors on the polling list of his polling place;

(c) a sufficient number of the prescribed directions for the guidance of voters for the purposes of the polling place;

(d) the polling list and a blank poll book for the polling place;

(e) all materials necessary for electors to mark their ballots; and

(f) such other materials as are prescribed.

(2) A ballot box shall be made of durable material, provided with lock and key, and so constructed that the ballots can be deposited therein and cannot be withdrawn without unlocking the box. ^{Ballot box}

(3) When delivering the ballots for a polling place to a deputy returning officer the clerk shall certify the number of ballots so delivered and upon receiving them the deputy returning officer shall make a count of the ballots and forward the prescribed receipt therefor to the clerk, and shall keep the certificate for return to the clerk with the other documents required to be returned to him under section 76. ^{Clerk to certify number of ballots}

(4) Every deputy returning officer before opening the poll, or immediately after he has received the printed directions from the clerk if they were not received before opening the poll, shall cause them to be placarded outside the polling place and in every compartment of the polling place, and shall see that they remain so placarded until the close of the polling. ^{Directions to be placarded}

WHERE AND HOW OFTEN ELECTORS MAY VOTE

Number
of votes
that
may be
given by
an elector

47. An elector whose name appears on the polling list for a polling subdivision or who presents a certificate to vote there under section 31, 48 or 54, is entitled to vote in an election in such subdivision in accordance with the following rules:

1. He is entitled to vote once only for one candidate for mayor, reeve or deputy reeve.
2. He is entitled to vote for as many candidates for controller as there are controllers to be elected but once only for each candidate.
3. Where the election of aldermen, councillors, trustees or members of local boards is by general vote, he is entitled to vote for as many candidates for such offices as there are candidates to be elected but once only for each candidate.
4. Where the aldermen, councillors, trustees or members of local boards are elected by wards, he is entitled to vote,
 - i. if resident in the municipality, in the polling subdivision in which he resides ; or
 - ii. if not resident in the municipality, in the polling subdivision in which his name appears on the polling list,

for as many candidates for such offices as there are candidates to be elected for the ward but once only for each candidate.
5. Where the election is to the office of member of a school board to be elected by public school electors in a municipality or a part thereof, or in a combination of municipalities, in which the polling subdivision is located, a public school elector is entitled to as many votes as there are members to be elected by the public school electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.
6. Where the election is to the office of member of a school board to be elected by separate school electors

in a municipality or in a part thereof, or in a combination of municipalities, in which the polling subdivision is located, a separate school elector is entitled to as many votes as there are members to be elected by the separate school electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.

7. An elector who is entitled to vote in respect of any by-law or question authorized or required by law to be submitted for the assent or opinion of the electors is entitled to vote once only with respect to such by-law or question.

48.—(1) Subject to subsection 2, at the request of a person whose name is entered on the polling list for a polling place in a municipality who has been appointed a deputy returning officer or poll clerk at another polling place, the clerk of the municipality shall give him a certificate that he is entitled to vote at the polling place at which he is stationed during the polling day.

Voting of
D.R.O. and
poll clerk
where
employed

(2) No certificate shall be issued under this section entitling an elector in a municipality that is divided into wards to vote at a polling subdivision in a ward different from the ward in which the polling place at which the elector is otherwise entitled to vote is situate.

Where
municipality,
divided into
wards

(3) The clerk shall not give a certificate under this section until he has ascertained by reference to the polling list or to a certificate under section 31 that the applicant is entitled to vote, and after giving the certificate he shall forthwith give notice in writing thereof to the deputy returning officer for the polling place at which the applicant is by the polling list or certificate under section 31 to be entitled to vote, and the person to whom the certificate has been given is not thereafter entitled to vote at such polling place.

When
certificate
may be
given

(4) The certificate shall designate the polling place at which the person is to be permitted to vote.

Certificate

(5) The clerk shall keep a list in which he shall enter before he delivers a certificate under this section,

List of
certificates

- (a) the name and residence of the person to whom he gives the certificate;
- (b) the polling place at which the person is authorized to vote under the certificate;

- (c) the polling place at which the person appears by the polling list to be entitled to vote;
- (d) whether the certificate is granted to such person as deputy returning officer or poll clerk; and
- (e) if a certificate is refused, the name of the person applying for the certificate with the grounds of refusal,

and the list shall be open to inspection by any candidate scrutineer or elector.

Certificate
entitles
person to
vote

49.—(1) A person who produces a certificate given to him under section 48 is entitled to vote at the polling place designated therein, but the certificate does not entitle him to vote there unless he has been actually engaged there as a deputy returning officer or poll clerk during polling day.

Entry in
poll book

(2) The deputy returning officer shall enter or cause to be entered in the column for remarks in the poll book opposite the name and residence of the person voting under the authority of a certificate, the words "Voted under Certificate".

Certificate
to be given
to D.R.O.

(3) A person voting under the authority of a certificate shall deliver it to the deputy returning officer before receiving his ballot.

To be kept
in envelope

(4) The deputy returning officer shall enclose all certificates to which this section applies in one envelope.

PROCEDURE AT POLL

Hours poll
to be
open

50. Every polling place shall be open for the purpose of taking the poll at every election from 11 o'clock in the forenoon until 8 o'clock in the afternoon of polling day.

When
D.R.O. to
attend poll

51.—(1) A deputy returning officer shall attend at the polling place for which he was appointed at least fifteen minutes before the hour fixed for opening the poll.

Counting of
ballots before
opening of
poll

(2) During the period of fifteen minutes before the opening of the poll, the scrutineers who are entitled to be present in a polling place during polling hours are entitled to inspect the ballots and all other papers, forms and documents relating to the poll.

Inspection,
sealing of
ballot box

52. A deputy returning officer shall, immediately before opening the poll at his polling place, show the ballot box to such persons as are present in the polling place, so that

they may see if it is empty, and he shall then lock the box and place his seal upon it in such a manner as to prevent it being opened without breaking the seal, and he shall keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present, and shall keep the box so locked and sealed until the box is required to be opened for the purpose of counting the votes under section 69.

53.—(1) Where a person tenders his vote, the deputy returning officer shall proceed as follows: Duties of
D.R.O. on
tender of
vote

1. He shall ascertain that the name of such person or a name apparently intended for it is entered on the polling list for the polling subdivision or that such person is entitled to vote under a certificate issued by the clerk pursuant to section 31 or 48.
2. He shall record or cause to be recorded by the poll clerk, in the proper columns of the poll book, the name and residence of such person.
3. If the deputy returning officer is satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote and if no candidate or scrutineer objects to voting by such person, the deputy returning officer shall put his initials on the back of a ballot paper, so placed that when the ballot is folded they can be seen without opening it and shall deliver the ballot paper to such person.
4. If voting by such person is objected to by any candidate or scrutineer, the deputy returning officer shall enter the objection or cause it to be entered in the poll book, by writing opposite the name of such person in the proper column the words "*Objected to*" and the name of the candidate by or on whose behalf the objection was made and the deputy returning officer shall require such person to take the prescribed oath.
5. If the deputy returning officer is not satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote, although no candidate or scrutineer has objected, he may require such person to take the prescribed oath.
6. If such a person having been required to take the oath refuses to do so, the deputy returning officer

shall enter or cause it to be entered opposite the name of such person in the proper column of the poll book the words "*Refused to be sworn*" or "*Refused to affirm*" according to the fact and a ballot paper shall not be delivered to such person.

7. If such person takes the oath, the deputy returning officer shall enter or cause to be entered opposite such person's name in the proper column of the poll book the word "*Sworn*" or "*Affirmed*" according to the fact, shall put his initials on the back of a ballot paper, so placed that when the ballot is folded they can be seen without opening it, and shall deliver the ballot paper to such person.
8. The deputy returning officer may, and upon request shall, either personally or through the poll clerk, explain to the elector as concisely as possible the mode of voting.

Disqualifica-
tion of
prisoners,
mentally ill,
etc.

(2) A person who on polling day is a prisoner in a penal or reform institution, or a patient in a mental hospital, or who has been transferred from a mental hospital to a home for special care as mentally incompetent is disqualified from voting at any election and no ballot shall be furnished to such a person.

Elector in
polling
place at
closing

(3) Every elector qualified to vote at a polling place who is inside the polling place at the time fixed for closing the poll is entitled to vote.

Entry of
name on
polling list
by D.R.O.

54.—(1) If a person representing himself to be an elector applies to a deputy returning officer at a polling place for a ballot and his name does not appear in the polling list or in a certificate issued under section 31 or 48 as entitled to vote at the polling place, he is entitled to have his name entered on such polling list and to receive a ballot and to vote if he takes a declaration in the prescribed form and otherwise establishes his identity to the satisfaction of the deputy returning officer.

Idem

(2) The deputy returning officer shall enter or cause to be entered on the polling list and on the poll book the name of the elector and shall enter in the poll book a note of his having voted after being sworn as provided in subsection 1.

Where it
appears
person voted
in place
of elector,
etc.

55.—(1) Where an elector entitled to vote at a polling place applies for a ballot paper and it appears that another person has voted as such elector or that an entry has been made on the polling list in error that such elector has polled his vote, if such person takes an oath in the prescribed form and otherwise establishes his identity to the satisfaction of the deputy returning officer he is entitled to receive a ballot paper.

(2) The deputy returning officer shall enter or cause to be entered on the poll book opposite the name of the elector who votes under this section a note of his having voted on a second ballot or of an entry having been made in the polling list in error that he has polled his vote, as the case may be.

Entry in
poll book

56.—(1) An elector who is required to take the oath is entitled to select any one of the prescribed forms of oaths, whatever may be the description in the polling list of the qualification or the character in which he is entered upon it.

Form of oath

(2) No inquiry shall be made of an elector who is required to take the oath except with respect to the matters required to be stated in the oath or to ascertain if he is the person intended to be designated on the polling list.

Inquiry

57. Upon delivery to him of a ballot paper by a deputy returning officer, the person receiving it shall,

Procedure
on receipt
of ballot

- (a) forthwith proceed into the compartment provided for the purpose and shall then and there mark his ballot paper with a cross or other mark with a pen or pencil within the circle or circular space to the right of the name of a candidate for whom he intends to vote;
- (b) then fold the ballot paper so as to conceal the names of the candidates and the marks upon the face of it and so as to expose the initials of the deputy returning officer;
- (c) then leave the compartment without delay, and without showing the face of the ballot paper to anyone, or so displaying it as to make known how he has marked it; and
- (d) then deliver the ballot paper so folded to the deputy returning officer.

58.—(1) Upon delivery of a ballot paper to him by an elector, the deputy returning officer, without unfolding the ballot paper, or in any way disclosing the names of the candidates or the marks made by the elector, shall verify his own initials, and at once deposit the ballot paper in the ballot box in the presence of all persons entitled to be present and then present in the polling place, and the elector shall forthwith leave the polling place.

Duty of
D.R.O. on
receipt of
ballot

(2) A person whose ballot has been placed in the ballot box by the deputy returning officer shall be deemed to have voted.

Person
deemed
to have
voted

(3) The deputy returning officer or the poll clerk shall place his initials in the appropriate column of the poll book opposite the name of every person who has voted for candidates for the office named in that column.

Entry in
poll book

Person not
to take
ballot
from polling
place

59.—(1) A person who has received a ballot from a deputy returning officer shall not take it out of the polling place, and a person who receives a ballot and leaves the polling place without returning it to the deputy returning officer, or returns his ballot declining to vote, forfeits his right to vote, and the deputy returning officer, shall make an entry in the poll book in the column for remarks to the effect that the person received a ballot but took it out of the polling place, or returned it declining to vote, as the case may be, and in the latter case the deputy returning officer shall immediately write the word "*Declined*" upon the ballot and preserve it to be returned to the clerk.

Ballot
accidentally
spoiled

(2) An elector who has inadvertently dealt with his ballot in such a manner that it cannot be conveniently used, upon returning it to the deputy returning officer, is entitled to obtain another ballot, and the deputy returning officer shall immediately write the word "*Cancelled*" upon the first-mentioned ballot and preserve it to be returned to the clerk.

No other
person in
compartment
while elector
marking
ballot

60. Subject to section 61, while an elector is in a compartment for the purpose of marking his ballot paper, no other person shall be allowed to enter the compartment or to be in a position from which he can see how the elector marks his ballot paper.

Voter
incapacitated
by blindness,
etc.

61.—(1) On the application of any elector who is unable to read or is incapacitated by blindness or other physical cause from voting in accordance with the other provisions of this Act, the deputy returning officer shall require the elector making the application to take an oath of his incapacity to vote without assistance, and shall thereafter assist the elector by marking his ballot in the manner directed by the elector in the presence of the poll clerk and of no other person and place the ballot in the ballot box.

Blind voter's
ballot
marked by
friend

(2) The deputy returning officer shall either deal with a blind elector in the manner provided in subsection 1 or, at the request of any blind elector who has taken the prescribed oath and is accompanied by a friend, shall permit the friend to accompany the blind elector into the voting compartment and mark the elector's ballot for him.

Oath of
friend

(3) Any friend who is permitted to mark the ballot of a blind elector under subsection 2 shall first be required to take the prescribed oath that he will keep secret the manner in which the blind elector voted.

May act
as friend
only
once

(4) No person shall be allowed to act as the friend of more than one blind elector at any polling place other than a polling place established under section 45.

(5) The deputy returning officer shall enter in the column ^{Entry in poll book} for remarks in the poll book opposite the elector's name the reason why the ballot was marked by him or by a friend of the elector.

62. Where the deputy returning officer does not understand the language of the elector, an interpreter provided by the elector may be sworn in the prescribed form to translate the necessary oaths as well as any lawful questions necessarily put to the elector and his answers, but in the event of inability to secure an interpreter, the elector shall be refused a ballot. ^{Voter who cannot understand English}

63. The deputy returning officer, the poll clerk, the election assistant, the constable or constables, any candidate or, in his absence, his scrutineer, any scrutineer appointed by the council in relation to any by-law or question, and no others shall be permitted to remain in the polling place during the time the poll is open or to be in the polling place at the counting of the votes. ^{Who may remain in polling place}

ADVANCE POLLS

64.—(1) The clerk shall hold an advance poll in accordance ^{Advance poll} with this section on the Monday and Saturday, seven days and two days respectively, before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivisions for which their names appear on the polling lists or who are entitled to vote under a certificate issued by the clerk under section 31 or 54.

(2) The advance poll shall be open from 11 o'clock in the forenoon until 8 o'clock in the afternoon on each of the two days it is held and polling shall be held so far as possible in the same manner as polling at a regular election. ^{When poll to be open}

(3) The clerk shall provide as many polling places for an advance poll as he considers necessary and shall appoint a deputy returning officer and poll clerk for each such polling place. ^{Polling places}

(4) Every person offering himself as a voter at a polling place for an advance poll shall be required by the deputy returning officer before being allowed to vote to make the prescribed declaration, which shall be kept by the deputy returning officer with the other records of the poll. ^{Declaration of elector}

(5) Forthwith after the close of the advance poll on each day it is held, the deputy returning officer shall make up and deliver to the clerk a list of the names of all persons who have voted showing in each case the number of the ^{List of persons voting}

polling subdivision in which the elector is entered on the polling list and the clerk shall, at the request of any candidate, furnish him with a copy of such list.

Duties of
clerk on
receiving
list

(6) Upon receiving the list mentioned in subsection 5, the clerk shall,

- (a) make an entry in the polling list to be supplied to each deputy returning officer on polling day opposite the name of each elector whose name appears on such list and whose vote has been received at an advance poll, showing that such elector has voted; or
- (b) make a certificate in the prescribed form for each polling subdivision, showing the name and address of each elector listed on the polling list for such polling subdivision who has voted at an advance poll, and shall furnish such certificate before the opening of the poll on polling day to the deputy returning officer of the polling subdivision, and the deputy returning officer shall before opening the poll make an entry on the polling list supplied to him, opposite the name of each elector whose name appears on the certificate, showing that such elector has voted.

Sealing
of box

(7) Forthwith after the close of the advance poll on each day it is held the deputy returning officer and any candidate or scrutineer present who desires to do so shall affix his seal to the ballot box in such a manner that it cannot be opened or any ballots be deposited in it without breaking the seals and the deputy returning officer shall forthwith deliver it personally to the clerk for safe keeping.

Opening of
ballot boxes
for advance
poll

(8) On the regular polling day for an election, after the close of polling, the deputy returning officer shall, in the presence of such candidates for office at the election and their scrutineers as are present at the hour fixed for the closing of the poll, open the ballot boxes for the advance poll, count the votes and perform all other duties required of deputy returning officers by this Act.

PROXY VOTING

Who may
vote by
proxy

65.—(1) Any person whose name is entered on the polling list for a polling subdivision and who is,

- (a) a person other than one described in section 45 and who is certified by a legally qualified medical practitioner, by certificate filed with the clerk, to be physically incapable of attending a polling place;

(b) a person absent from his regular residence by reason of attending an educational institution and who is entered on the list for the polling subdivision in which he normally resides and who expects by reason of such absence to be unable to vote at the advance poll or on polling day; or

(c) a person who expects to be absent from his polling subdivision during the election period including the advance poll and polling day by reason of his being engaged for hire or reward in the business of transportation by railway, air, water or motor vehicle,

may vote by proxy in that polling subdivision.

(2) Any person who is entitled to vote by proxy pursuant to subsection 1 may appoint in writing in the prescribed form as his voting proxy a person who is entitled to vote in the municipality in which the person voting by proxy is qualified to vote. Who may be proxy

(3) A voting proxy may not act as a voting proxy for more than one person voting by proxy except where the person voting by proxy is the child, grandchild, brother, sister, husband or wife of the voting proxy, in which case a voting proxy may act for more than one such person voting by proxy. May be proxy once only

(4) An appointment of a person as a voting proxy is not valid unless it is made after nomination day and does not remain in force after polling day. Term of appointment

(5) A person who has been appointed a voting proxy may apply to the clerk not later than 5 o'clock in the afternoon of the Tuesday preceding polling day to receive a certificate to vote by proxy for the polling subdivision in which the person appointing the voting proxy is entitled to vote. Application for certificate to vote by proxy

(6) The clerk shall take evidence on oath as to the right of the person appointing the voting proxy to vote in the polling subdivision upon the list for which his name is entered and as to the qualifications of the voting proxy, and, if he finds that the person appointing the voting proxy is duly qualified and that the voting proxy is qualified to act for the person appointing him, he shall give a certificate in prescribed form across the face of the appointment of the voting proxy to that effect. When certificate to be given

(7) Not more than one voting proxy may be appointed on behalf of any person at any election. Not more than one proxy

Oath on
voting

(8) A ballot shall not be delivered to a person who claims to vote as a voting proxy unless he produces his appointment as a voting proxy to the deputy returning officer with the certificate of the clerk thereon as provided in subsection 6 and takes the prescribed oath.

Record of
voting proxy

(9) Where a voting proxy has voted, the deputy returning officer shall record in the poll book the fact that the person appointing the voting proxy voted by proxy and the name of the voting proxy, and shall file the appointment of the voting proxy and the certificate of his appointment given by the clerk with the election papers and return them to the clerk in the envelope provided for that purpose.

Proxy may
vote in
own right

(10) A person who has been appointed as a voting proxy is entitled to vote in his own right in the municipality notwithstanding that he has voted as a voting proxy.

KEEPING OF PEACE: INTERRUPTED ELECTIONS

Assistance of
constables

66. A clerk or a deputy returning officer may require the assistance of constables and other persons to aid him in maintaining peace and order at the election and may swear in as many constables as he considers necessary.

When
election not
commenced or
interrupted

67. If by reason of riot or other emergency the voting at a polling place is not commenced on the proper day or is interrupted after being commenced and before the lawful closing thereof, the clerk or deputy returning officer, as the case may be, shall hold or resume the polling on the following day at 11 o'clock in the forenoon and continue the same from day to day, until the poll has been opened without interruption and with free access to voters for nine hours in all.

COUNTING THE VOTES

Duties of
D.R.O. after
close of poll

68. Immediately after the close of the poll, the deputy returning officer at each polling place shall,

- (a) place all the cancelled, declined and unused ballots in separate sealed envelopes;
- (b) count the number of electors whose names appear by the polling book to have voted and make an entry in the book on the line immediately below the name of the elector who voted last as follows:—"The number of electors who voted at this election in this polling place is (stating the number)" and sign his name thereto.

69.—(1) After compliance with section 68, the deputy returning officer shall, in the presence and in full view of the persons entitled to be present, open the ballot box for the polling place and proceed to count the numbers of votes for each candidate, giving full opportunity to those present to examine each ballot. ^{Counting of votes}

(2) In counting the votes, the deputy returning officer shall reject all ballots, ^{Rejection of ballots}

- (a) that have not been supplied by him;
- (b) that contain the names of candidates for one office only and in which votes have been cast for more candidates than are to be elected to the office;
- (c) that are separate ballots submitting a by-law for the assent or a question for the opinion of the electors, and votes are cast for both the affirmative and the negative on the by-law or question; or
- (d) upon which there is any writing or mark by which the elector can be identified, or that has been so torn, defaced or otherwise dealt with by the elector that he can thereby be identified,

but no word, letter, or mark written or made or omitted to be written or made by the deputy returning officer on a ballot voids it or warrants its rejection.

(3) Where a ballot contains the names of candidates for more than one office and votes are cast on such ballot for more candidates for any office than are to be elected to such office, such votes are void and shall be rejected, but unless such ballot is rejected under subsection 2, the votes for any other office in respect of which the elector has not voted for more candidates than are to be elected shall be counted. ^{Idem}

(4) Where in a composite ballot,

^{Composite ballots}

- (a) votes are cast for more candidates for any office than are to be elected to such office; or
- (b) votes are cast for both the affirmative and negative on any by-law or question,

the votes for such candidates or with regard to the by-law or question, as the case may be, are void and shall be rejected but, unless such ballot is rejected under subsection 2, the votes for any other offices, by-law or question in respect of which votes are correctly indicated shall be counted.

Where part
of votes
rejected

(5) Where part of the votes cast in any ballot are rejected under subsection 3 or 4, the deputy returning officer shall note such fact on the back of the ballot and initial the note, and where all the votes on the ballot are rejected under either or both of such subsections, the ballot shall be treated as a rejected ballot.

Objection
by candidate,
etc.

70.—(1) A candidate or a scrutineer at a polling place may object to a ballot or to the counting of votes in any ballot in whole or in part on the ground that the ballot or such votes should be rejected under section 69 and the deputy returning officer at the polling place shall decide the objection, subject to review on a recount or in a proceeding questioning the validity of the election.

Objections to
be listed

(2) The deputy returning officer shall list all objections under subsection 1 to the counting of ballots or of votes therein and number such objections and shall place the number of an objection on the back of the ballot objected to and initial the number.

How votes
counted

71. The deputy returning officer shall count all votes cast at his polling place that are not rejected and shall keep an account of the number of votes so cast and allowed for each candidate and with respect to each by-law or question.

Ballots to
be placed
in separate
packets

72. Following count of the votes at his polling place, a deputy returning officer shall place in separate sealed packets,

- (a) all used ballots that have not been objected to and have been counted in whole or in part;
- (b) all used ballots that have been objected to but which have been counted in whole or in part;
- (c) all rejected ballots;
- (d) all ballots used but unmarked.

D.R.O. to
endorse
packets

73. The deputy returning officer shall endorse every packet of ballots made up by him under clause *a* of section 68 or section 72 so as to indicate its contents and any candidate or scrutineer present may write his name on the packet.

Oath of
poll clerk

74. The poll clerk, immediately after the completion of the counting of the votes, shall take and subscribe the prescribed oath.

STATEMENT AND MATERIALS RETURNED TO CLERK

75.—(1) The deputy returning officer shall make out a ^{Statement of D.R.O.} statement in duplicate of the number of,

- (a) ballots received from the clerk;
- (b) votes given for each candidate;
- (c) votes given for and against a by-law or question;
- (d) used ballots that have not been objected to and have been counted;
- (e) ballots that have been objected to in whole or in part but which have been counted;
- (f) rejected ballots;
- (g) cancelled ballots;
- (h) ballots used but unmarked;
- (i) declined ballots;
- (j) unused ballots;
- (k) voters whose ballots have been marked by the deputy returning officer under sections 45 and 61.

(2) One statement shall be attached to the poll book and the duplicate statement enclosed in a special packet shall be ^{Statement attached to poll book} delivered to the clerk as provided herein.

(3) The statement shall be signed by the deputy returning officer and the poll clerk and such of the candidates or their ^{Statement signed by D.R.O., etc.} scrutineers as are present and desire to sign it.

(4) The deputy returning officer shall deliver to such of the candidates or their scrutineers as are present, if requested to do so, a certificate of the number of ballots counted for each candidate, and of the rejected ballots. ^{Certificate re ballots counted and rejected}

76.—(1) The deputy returning officer shall place in the ballot box the poll book, the polling list, the packets containing the ballots and all other documents or packets that served at the election, except, ^{What to be placed in ballot box}

- (a) the duplicate statement;
- (b) the oath of the poll clerk; and
- (c) the oath of the person, if any, chosen to deliver the ballot box to the clerk.

Box to be
locked, etc.

(2) The deputy returning officer shall then lock and seal the ballot box and forthwith deliver it and the documents enumerated in subsection 1 personally to the clerk.

Oath of
D.R.O.

(3) Forthwith thereafter, the deputy returning officer shall take and subscribe the prescribed oath and shall personally deliver it or transmit it by registered mail to the clerk.

Delivery of
ballot box,
etc., to
clerk

(4) If the deputy returning officer is unable personally to deliver the ballot box and documents enumerated in subsection 1 owing to illness or other cause, he shall deliver them to the poll clerk for delivery to the clerk, or, where the poll clerk is unable to act, to some person chosen by the deputy returning officer for the purpose of delivering them to the clerk, who shall take the prescribed oath to do so and the deputy returning officer shall thereon, or on a ticket attached thereto, write the name of the person to whom the box was delivered and shall take a receipt therefor, and the poll clerk or person so chosen shall forthwith personally deliver them to the clerk and shall take before him the prescribed oath.

Right of
candidate,
etc., to be
present

(5) The candidates, or their scrutineers, are entitled to be present when the ballot box and documents for a polling place are delivered to the clerk pursuant to this section.

D.R.O. not to
take box to
home, etc.

(6) A deputy returning officer, after the close of the poll, shall not under any circumstances take, or allow to be taken, the ballot box to his home, house, office or place of business, or to any house or place except the office of the clerk.

Clerk to add
up votes

77.—(1) The clerk, after he has received the ballot boxes and other documents referred to in section 76, shall, without opening any of the ballot boxes, cast up from the duplicate statements showing the number of votes for each candidate and for the affirmative or negative on any by-law or question at each polling place the total number of votes for each candidate and the total number of votes for the affirmative or negative on any by-law or question.

Declaration
of result

(2) After casting up the total number of votes cast at an election, the clerk shall, at the town hall or, if there is no town hall, at the clerk's office at noon on the Thursday following the day on which the polling is held, publicly declare to be elected the candidate or candidates having the highest number of votes, and declare the result of the vote with respect to any by-law or question and he shall also post up in some conspicuous place a statement under his hand showing the number of votes for each candidate and for the affirmative or negative on the by-law or question.

(3) If for any cause, the clerk cannot, at the day and hour appointed by him for adding up the votes, ascertain the number of votes given for each candidate, or for the affirmative or negative on any by-law or question he may adjourn to a future day and hour the adding up of the votes and so on from time to time, such adjournment or adjournments not in the aggregate to exceed fourteen days.

78.—(1) Except as provided in this section, the clerk, upon the receipt of a ballot box, and the documents referred to in section 76, shall take every precaution for their safekeeping and for preventing any other person from having access to them, and shall immediately on receipt of the ballot box seal it with his own seal in such a way that it cannot be opened without his seal being broken, and that any other seals affixed to it are not effaced or covered.

(2) Where the documents specified in subsection 1 of section 76 are in error placed in the ballot box or where the duplicate statement cannot be interpreted by the clerk, he may open such ballot box or boxes in the presence of the deputy returning officer concerned and, after having recovered or ascertained the meaning of the statement, as the case may be, the box shall be resealed by the deputy returning officer in the presence of the clerk and by the clerk.

(3) If a deputy returning officer has not delivered the statement of the ballots counted by him to the clerk as required by section 76, the clerk shall after notification to the candidates or their scrutineers, who may be present, open the appropriate ballot box for the purpose of counting the votes and shall count the votes.

79. If a ballot box for any polling place has been destroyed or lost, or, for any other reason, is not forthcoming by the time fixed for adding up the votes, the clerk shall ascertain the cause and, if the statement of the votes cast and certificates, or any of them or copies of them, cannot be procured, the clerk shall ascertain by such evidence as he is able to obtain, the total number of votes given for each candidate at the polling place and for the affirmative or negative on any by-law or question, and may summon any deputy returning officer, poll clerk, election assistant or other person to appear before him at a time and place to be named by him, and the clerk shall notify the candidates of the intended proceedings and may examine on oath such deputy returning officer, poll clerk, election assistant or other person respecting the matter in question.

80.—(1) If upon the casting up of the votes, two or more candidates have an equal number of votes where both or all of

such candidates cannot be elected, or the votes for the affirmative and negative on a by-law or question are equal, the clerk shall publicly declare the result and post up in a conspicuous place a statement showing the number of votes for each candidate and for and against the by-law or question and shall forthwith notify a judge of the result and the judge shall thereupon appoint a time and place to recount the votes cast up for such candidates or concerning such by-law or question.

Application
of ss. 81-88

(2) In such proceedings, sections 81 to 88 apply *mutatis mutandis*.

RECOUNT

Interpre-
tation

81.—(1) In this section and in sections 82 to 84, “judge” means the judge of the county or district court in which the municipality or part thereof or the administrative or head office of the local board is situate.

Where
recount
desirable

(2) If, within fourteen days after the declaration by a clerk of the result of an election, upon an application of a candidate or voter it is made to appear by affidavit to a judge that the votes have been improperly counted or any ballot paper has been improperly rejected or that an incorrect statement of the number of ballots cast for any candidate or for the affirmative or negative on any by-law or question has been made or that the votes have been improperly added up, and if within that time the applicant has given security for the costs in connection with the recount or final addition of any candidate declared elected in the amount of \$100 in legal tender, or if at any time within four weeks after such declaration the council of the municipality whose clerk was the returning officer has by resolution declared that a recount or final addition is desirable in the public interest, the judge shall appoint a time and place to recount or make a final addition of the votes cast at the election, and shall notify the clerk thereof.

Notice of
recount

(3) At least two days notice in writing of the time and place appointed shall be given by the clerk to the candidates and to the applicant, and the clerk or a person appointed by the clerk for the purpose shall attend the recount or final addition with the ballot boxes and all documents relating to the election.

Who may be
present

(4) The judge, the clerk, a person appointed by the clerk, each candidate and his scrutineer appointed to attend the recount or final addition, and such other persons as the council may appoint where the recount or final addition relates to a by-law or question, but no other person, except with the approval of the judge, is entitled to be present at the recount.

(5) Where a recount relates to the election of a candidate, the recount shall be of the ballots cast respectively for the candidate declared elected when one only is to be elected or in other cases for the candidate who received the lowest number of votes of those declared elected by the clerk and for the defeated candidate who received the highest number of votes for the same office unless any other candidate in writing requires the ballots cast for him to be recounted or the votes cast for him to be finally added.

What ballots
involved in
recount

(6) At the time and place appointed, and in the presence of such of the persons entitled to be present as may attend, the judge conducting a recount or final addition of the votes cast at an election shall make such final addition from the statements returned to the clerk by the deputy returning officers, or recount all the ballots received by the clerk from the several deputy returning officers and the number of votes counted at the election and shall for the purposes of the recount open the sealed packets containing the used ballots that were not objected to and were counted, the ballots that were objected to but which were counted, the rejected ballots, the cancelled ballots, the ballots that were used but were unmarked, the declined ballots and the unused ballots.

Procedure
by judge

(7) Subject to subsection 8, the judge shall proceed according to the provisions of this Act for the counting of the ballots and of the vote at the close of the poll by a deputy returning officer, and shall verify and correct the statement of the poll.

Rules to
govern
proceedings

(8) If for any reason it appears desirable to do so the judge, upon the application of any party to a recount, may hear such evidence as he considers necessary for the purpose of making a full and proper recount of the ballots, and, without restricting the generality of the foregoing, he may, if the recount results in any of the candidates for any office being declared to have received the same number of votes as any other candidate or candidates who were parties to the recount, hear such evidence as he considers necessary to determine who was elected to that office.

Judge may
hear any
evidence
necessary for
proper
recount

(9) Upon the completion of a recount all the ballots shall be sealed in their separate packets and upon completion of final addition, the statements shall be sealed in their respective packets and the judge shall certify the result of the recount or final addition to the clerk.

Judge to
certify
recount
to clerk

(10) The judge may require the clerk of the county or district court to be present at the time and place appointed.

Clerk of
court

82.—(1) The judge shall delay sending his certificate under section 81 to the clerk for two days after the completion of

Time for
sending
certificate
to clerk

the recount or final addition in order to allow for an appeal as provided in section 86.

If no appeal
clerk to
declare
result

(2) If no notice of appeal is given to the judge within two days after the completion of a recount or his final addition, the judge shall certify forthwith the result to the clerk who shall then declare the candidate having the greatest number of votes to be elected or certify to the council the result of the vote with respect to a by-law or question.

Equality of
votes after
recount
where one
person to be
elected

83. In the case of an equality of votes for candidates for any office for which one person only is to be elected, as a result of a recount or final addition, the successful candidate shall be determined by lot conducted by the clerk.

Costs of
recount

84.—(1) The costs of a recount under section 81 are in the discretion of the judge making the recount who may order by whom, to whom and in what manner the costs shall be paid.

Awarding
of costs

(2) The judge may in his discretion award costs of a recount or final addition to or against any candidate who is a party to it and may fix the amount thereof or order that they be taxed by the clerk of the district or county court on a scale following as nearly as may be the tariff of costs of the county court.

Where no
provision as
to costs

(3) Where the judge makes no provision as to the costs of a recount or final addition, the disbursements made or authorized to be made by the clerk shall be paid by the municipality.

Payment of
deposit

(4) Where costs are directed to be paid by the applicant for a recount or final addition, the money deposited as security for costs under section 81 shall be paid out to the party entitled to such costs, so far as necessary.

Enforcement
of payment
of costs

(5) Payment of the costs awarded under this section may be enforced by execution to be issued from any county or district court, upon filing therein the order of the judge and a certificate showing the amount at which the costs were taxed and an affidavit of the non-payment of them.

Expenses of
judge

(6) The judge is entitled to receive from the municipality the expenses necessarily incurred in attending at the place designated by him for a recount or final addition.

Where no
appeal
documents,
etc., to be
returned
to clerk

85.—(1) Upon expiry of the time for appeal from a decision of a judge on a recount or final addition if no appeal has been

taken, the judge shall cause all the ballots to be sealed in their original packets and upon completion of final addition, shall cause the statements to be sealed in their respective packets and returned to the custody of the clerk.

(2) If an appeal is taken from the decision of a judge on a recount or final addition, the judge shall cause such of the ballots and such of the original statements as are not required for the purpose of the appeal to be sealed in their respective packets and returned to the custody of the clerk.

Documents not required on appeal

APPEAL FROM DECISION ON RECOUNT OR FINAL ADDITION

86.—(1) Any party may appeal from the decision of the judge who conducted a recount or final addition other than a decision on a recount or final addition of votes in relation to any by-law or question, by giving notice in writing within two days after the completion of the recount or final addition to the other parties and to the judge of his intention to appeal, and he may by the notice limit the appeal to specified ballots.

Appeal from decision of judge

(2) The notice may be served upon the other parties personally, or as a judge of the Supreme Court may direct.

Service of notice

(3) Where the appeal is limited, the judge who conducted the recount or final addition shall cause to be sealed the ballots or statements that are the subject of appeal in a separate packet and shall forward them, together with the notice and a certificate showing his findings as to the ballots in dispute, by registered mail to the Registrar of the Supreme Court, but, if the appeal is not limited the judge shall forward all the ballots and other papers to the Registrar, and in either case he shall await the result of the appeal before sending his certificate under section 81 to the clerk.

Ballots, etc., to be forwarded to Registrar of Supreme Court

(4) On receipt of the ballots and notice, the Registrar shall forthwith obtain an appointment from a judge of the Supreme Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed.

Appointment for hearing

(5) At the time appointed, the judge of the Supreme Court shall recount the ballots or such of them as are the subject of appeal, or review the final addition, as the case may be, and shall forthwith certify his decision to the judge who conducted the recount or final addition, whose duty it is to conform to the decision and to certify the result without delay to the clerk.

Procedure on appeal

(6) The judge of the Supreme Court may direct by and to whom, the costs of the appeal shall be paid.

Costs of appeal

Idem

(7) Where the judge of the Supreme Court makes no provision as to costs, the disbursements made or authorized to be made by the clerk, shall be paid by the municipality.

DISPOSITION OF ELECTION RECORDS

Disposition
of ballots

87.—(1) The clerk shall retain in his possession for ninety days from the date of the poll for an election all the ballots in the election and, unless otherwise directed by an order of a judge or officer having jurisdiction to inquire as to the validity of the election, shall then destroy them in the presence of two witnesses, who shall make a statutory declaration that they witnessed the destruction of them and such declaration shall be filed in the office of the clerk.

Disposition
of other
documents

(2) Subject to subsection 1, the clerk shall retain in his possession all oaths, nominations, qualification documents, statements of the votes cast, and other documents relating to an election until the successors to the persons elected at such election have taken office, and may then destroy them.

Inspection of
ballots, etc.

88.—(1) No person shall be allowed to inspect any ballot or other document relating to an election in the custody of the clerk except under the order of a judge.

Order of
judge

(2) The order may be made on the judge being satisfied by affidavit or other evidence that the inspection is required for the purpose of maintaining a prosecution for an offence, or corrupt practice, or of taking proceedings for contesting the election or return.

Production
of documents
by clerk

89. Where an order is made for the production by the clerk of any document in his possession relating to an election, the production of it by him in such manner as may be directed by the order is evidence that the document relates to the election, and any endorsement appearing on any packet of ballots so produced is evidence that the contents are what they are stated to be by the endorsement.

NEW ELECTIONS

New
election

90.—(1) Where a new election is required under the authority of this or any other Act to fill a vacancy in any office by an election other than a regular election, the clerk of the municipality who is the returning officer with whom nominations may be filed shall set the date of the nomination day which shall be within forty-five days of the day on which the vacancy for which he is required to hold the election occurs.

Procedure

(2) The procedure including the period for filing nominations at a new election shall be the procedure and period applicable

at a regular election of the municipality and polling day shall be not less than eighteen and not more than twenty-one days after nomination day.

(3) The polling required to fill a vacancy in an office by this ^{Polling} section shall so far as possible be held in the same manner and by the same officers and take place at the same places in so far as practicable at which the polling took place at the last regular election.

(4) Unless a new preliminary list of electors has been ^{List of electors} furnished by the assessment commissioner, under subsection 5, the preliminary list to be used for preparation of the polling list for a new election shall be the polling list used at the last regular election, which shall be subject to revision as if it were a preliminary list of electors under section 24 and to additions pursuant to a certificate of the clerk under section 31 and the clerk may fix the times and places for the making of complaints as to revision.

(5) Where in the year following an election year, the annual ^{Idem} enumeration under *The Assessment Act* has, prior to the holding ^{R.S.O. 1970, c. 32} of the new election, been completed for the municipality or municipalities in which the new election is to be held, the assessment commissioner shall, within fourteen days of a request by the clerk or clerks of such municipality or municipalities, furnish a new preliminary list of electors based on such annual enumeration and in accordance with the requirements of this Act pertaining to the preparation of such lists and such preliminary list shall for all purposes, including revision by the clerk, be the preliminary list of electors for the new election.

(6) Where a vacancy occurs in any office and an election is to ^{Eligibility of member to be candidate for other office} be held to fill such vacancy, a person holding any other office is not eligible to be a candidate for the vacant office unless he has, before the first day of the period during which nominations for the new election may be filed, filed with the clerk a certified copy of his resignation from the office that he then holds with evidence satisfactory to the clerk that such resignation has been filed as required by legislation governing the office that he then holds.

(7) Notwithstanding anything in this or any other general or ^{Vacancy after March 31st of election year} special Act, a new election shall not be held to fill a vacancy where the vacancy occurs after the 31st day of March of an election year.

91. Notwithstanding that a new election becomes necessary, ^{Council may meet notwithstanding vacancy} meetings of the council may be held if a quorum of the council is present.

EFFECT OF IRREGULARITIES

Irregularities
not to offset
result

92. No election shall be declared invalid,

- (a) by reason of any irregularity on the part of the clerk or in any of the proceedings preliminary to the poll;
- (b) by reason of a failure to hold a poll at any place appointed for holding a poll;
- (c) by reason of non-compliance with the provisions of this Act as to the taking of the poll, as to the counting of the votes or as to limitations of time; or
- (d) by reason of any mistake in the use of the prescribed forms,

if it appears to the court having cognizance of the matter that the election was conducted in accordance with the principles of this Act and that the irregularity, failure, non-compliance or mistake did not affect the result of the election.

SECRECY OF PROCEEDINGS

Secrecy of
proceedings

93.—(1) Every person in attendance at a polling place or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting.

Interference
with
voter

(2) No person shall interfere or attempt to interfere with an elector when marking his ballot paper, or obtain or attempt to obtain at the polling place information as to how an elector is about to vote or has voted.

Communica-
tion as to
voting

(3) No person shall communicate any information obtained at a polling place as to how an elector at such polling place is about to vote or has voted.

Inducing
person to
show ballot

(4) No person shall, directly or indirectly, induce or attempt to induce an elector to show his ballot paper after he has marked it, so as to make known to any person how he has voted.

Voter not
to show
ballot

(5) Subject to section 61, an elector shall not show his ballot paper, when marked, to any person so as to make known how he voted.

No one com-
pellable to
disclose
his vote

(6) No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state how or for whom he has voted.

OFFENCES, PENALTIES AND ENFORCEMENT

94. Every person who, at an election,

Voting when
not qualified,
etc.

- (a) not being qualified to vote, votes; or
- (b) being qualified to vote, votes more times than he is authorized to vote by this Act; or
- (c) votes in a polling subdivision other than one in which he is entitled to vote by this Act,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both.

95. Every person who,

Improper
voting by
proxy

- (a) having appointed a voting proxy to vote at an election, attempts to vote at the election otherwise than by means of such voting proxy while the voting proxy is in force; or
- (b) having been appointed a voting proxy at an election, votes or attempts to vote at the election under the authority of the proxy when he knows or has reasonable grounds for supposing that his appointment has been cancelled or that the elector who made the appointment is dead or is no longer entitled to vote,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both.

96. Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise wilfully makes up a false statement of the poll is guilty of a corrupt practice and is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both.

Wilful
miscount
of ballots

97. Every clerk, deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

Neglect of
duties

98. Every person who,

Offences
relating to
ballot
papers

- (a) without authority, supplies a ballot to any person;
- (b) places in a ballot box a paper other than the ballot that he is authorized by law to place therein;

- (c) delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot given to him by the deputy returning officer;
- (d) takes a ballot out of the polling place;
- (e) without authority, takes, opens or otherwise interferes with a ballot box or books or packet of ballots or a ballot in use or used for the purpose of an election;
- (f) being a deputy returning officer, knowingly puts his initials on the back of any paper that is not a ballot, purports to be or is capable of being used as a ballot at an election; or
- (g) attempts to commit any offence mentioned in this section,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both.

False
information
to authorized
persons

99. Every person who knowingly furnishes false or misleading information to any person who by this Act is authorized to obtain information is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both.

Offences of
inducing un-
qualified
person to vote
or publishes
false state-
ment of with-
drawal of
candidate

100. Every person who,

- (a) induces or procures any person to vote knowing that that person has no right to vote; or
- (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both.

Bribery:

101.—(1) Every person who,

bribing
elector or
procuring
bribery by
money

- (a) directly or indirectly, himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers or promises any money or valuable consideration, or promises to procure or to endeavour to procure any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector, or to or for any person in order to induce any elector to vote or refrain from voting, or corruptly does any such act on account of any

elector having voted or refrained from voting at an election; or

- (b) directly or indirectly, himself or by any other person on his behalf, gives or procures or agrees to give or procure, or offers or promises any office, place or employment, or promises to procure or to endeavour to procure any office, place or employment to or for any elector, or to or for any other person in order to induce any elector to vote or refrain from voting, or corruptly does any such act on account of any elector having voted or refrained from voting at an election; or by gift or offer or promise of employment
- (c) directly or indirectly, himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement, to or for any person, in order to induce such person to procure or endeavour to procure the return of any candidate, or the vote of any elector at an election; or to induce anyone to procure return of candidate or endeavour to procure
- (d) upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any candidate, or the vote of any elector at an election; or receiving bribe to procure return of candidate
- (e) advances or pays, or causes to be paid, money to or to the use of any other person, with the intent that such money or any part of it shall be expended in corrupt practices at an election, or who knowingly pays or causes to be paid money to any person in discharge or repayment of money wholly or in part expended in corrupt practices at an election; or advancing money to be spent in corrupt practices
- (f) directly or indirectly, himself or by any other person on his behalf, on account of and as payment for voting or for having voted, or for illegally agreeing or having agreed to vote for any candidate at an election, or on account of and as payment for having illegally assisted or agreed to assist any candidate at an election, applies to such candidate for the gift or loan of any money or valuable consideration, or for the promise of the gift or loan of any money or valuable consideration, or for any office, place or employment, or the promise of any office, place or employment; or applying for money or employment in consideration of voting
- (g) before or during an election, directly or indirectly, himself or by any other person on his behalf, receives or agrees or contracts for any money, gift, loan or receiving money, office, etc., for having voted

valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at an election; or

receiving
money
corruptly
after
election

- (h) after an election, directly or indirectly, himself or by any other person on his behalf, receives any money or valuable consideration for having voted or refrained from voting, or for having induced any other person to vote or refrain from voting at an election; or

giving or
promising
office to
candidate
to stand or
withdraw

- (i) in order to induce a person to allow himself to be nominated as a candidate, or to refrain from becoming a candidate, or to withdraw if he has become a candidate, gives or procures any office, place or employment, or agrees to give or procure or offers or promises to procure, or endeavours to procure any office, place or employment for such person, or for any other person,

is guilty of bribery, and on summary conviction is liable to a fine of \$200, or to imprisonment for a term of not more than six months, or to both, and is disqualified from voting at any election for four years.

Personal
expenses of
candidate

(2) The actual personal expenses of a candidate, his reasonable expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising and other lawful and reasonable expenses in connection with the election, incurred by the candidate in good faith and without any corrupt intent, shall be deemed to be expenses lawfully incurred, and the payment thereof is not a contravention of this Act.

Posting of
provisions
as to corrupt
practices

(3) The clerk shall furnish every deputy returning officer with at least two copies of this section, and the deputy returning officer shall post them in conspicuous places at the polling place.

General
offence

102. Every person who contravenes any of the provisions of this Act, for which contravention no penalty is otherwise provided, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

Disqualifi-
cation of
persons
guilty of
corrupt
practice

103.—(1) Where a candidate at an election is convicted of bribery or of committing a corrupt practice, he is ineligible to be nominated and stand as a candidate at any election up to and including the next regular election, or to hold any office at the nomination of a municipal council or local board for four years following the date of the poll.

(2) If, when the candidate is convicted of committing a corrupt practice, the presiding judge finds that the act constituting in law a corrupt practice was committed without any corrupt intent, the candidate is not subject to the penalties and disabilities provided by subsection 1. Limitation


CORRUPT PRACTICES AND CONTROVERTED ELECTIONS


104.—(1) The validity of an election or of the election of any person to any office at such an election or whether or not any person is guilty of a corrupt practice respecting an election shall be tried and determined by an action commenced by issuing a writ in the county or district court for the county or district in which the municipality or the administrative or head office of the local board is situated. Validity of election, etc., determined by action

(2) Where the county or district court determines that a person has committed a corrupt practice it may, in addition to any other penalty or order, impose the penalties provided therefor under sections 94 to 100. Penalties for corrupt practice

(3) A candidate at an election or any elector entitled to vote at an election referred to in subsection 1, may commence an action under this section in relation to such election. Who may commence action

(4) No action shall be commenced after the expiration of ninety days following the date of the poll at the election referred to in subsection 1. Time for commencing action

 **105.**—(1) The judge shall, in a summary manner and without formal pleadings, hear and determine the questions raised by or upon an action under section 104 and may give directions as to the conduct thereof and may inquire into the facts on affidavit, by oral testimony, or by trying an issue framed by him, or by one or more of those means. Mode of trial

(2) Subject to subsection 1 and where not otherwise provided in this Act, the practice and procedure of the county or district court apply to an action commenced under section 104.  Idem

(3) The action shall be tried by a judge without a jury. Judge without jury

106.—(1) At the time of the commencement of an action, security shall be given on behalf of the plaintiff to be applied towards payment of all costs, charges and expenses, if any, that may become payable by the plaintiff, including the costs and charges of the clerk incurred in the publication of notices in the municipality in respect of the writ of the action or proceedings therein. Security for costs

- Idem** (2) The security shall be in the amount of \$400 and shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario.
- Abatement of action** **107.**—(1) An action abates on the death of a sole plaintiff or the survivor of several plaintiffs.
- Liability for costs** (2) The abatement of an action does not affect any liability for costs previously incurred.
- Substitution of plaintiff** (3) On the abatement of an action any person who might have been a plaintiff may apply to a judge of the court or, during the trial, to the trial judge to be substituted as the plaintiff.
- Substitution for unqualified person** **108.** Where a plaintiff is not qualified to be a plaintiff in an action under this Act, the action shall not on that account be dismissed if within such time as a judge of the court or, during the trial, the trial judge allows for that purpose, another plaintiff is substituted and substitution shall be made on such terms and conditions as the judge considers proper.
- Successful candidate guilty of corrupt practice** **109.**—(1) Where it is determined that a successful candidate is guilty of bribery or of a corrupt practice, the court may declare his election void and his office shall thereupon become vacant.
- Unseating and seating of another elected candidate** (2) Where the election of any person is declared void, the court may order that he be removed from office and, if it is determined that any other person would have been elected but for the corrupt practice that he be admitted to take his seat in the council or board or, if it is determined that no other person is elected, a new election shall be held.
- Where commission of corrupt practice affected result of election** (3) Where it is determined that any person is guilty of bribery or of a corrupt practice and that the commission of the bribery or corrupt practice affected the result of the election, the court may declare the election void and a new election shall be held.
- Where act of election official affected result of election** (4) Where it is determined that any act or omission of an election official affected the result of an election, the court may declare the election void and a new election shall be held.
- Compensation of candidates where election void** (5) Where a new election is to be held, the court may make such order as it considers just, against any person who is found guilty of an offence or of bribery or a corrupt practice under this Act, for the compensation of candidates at the void election, not exceeding \$2,000 per candidate.
- Judgment to clerk** (6) The clerk of the court shall forward a copy of the judgment and the reasons for judgment to the clerk of the municipality.

110. If the court determines that a member was not duly elected, notwithstanding that an appeal from the decision is pending, he is not entitled to sit or vote on the council or board until the appeal is disposed of and the judgment of the court on appeal is received by the council or local board, but where the court determines that some other person was elected or is entitled to the seat, such person is, notwithstanding that an appeal is pending, entitled to take his seat and to sit and vote until the appeal is disposed of and the judgment of the court on appeal is received by the council or local board.

Where
election set
aside and
appeal
entered

111. A new election shall not be held until after the expiration of the time limited for appeal from the determination of the court that the election is void and, if an appeal is brought, the election shall not be held pending the appeal.

New election
not to be
held pending
appeal

112.—(1) An appeal lies from the judgment of the county or district court to the Divisional Court in accordance with the rules of court.

Appeal to
Divisional
Court

(2) The Divisional Court may give any judgment that ought to have been pronounced or may grant a new trial for the purpose of taking evidence or additional evidence and may remit the case to the trial judge or to another judge and, subject to any directions of the Divisional Court, the case shall thereafter be proceeded with as if there had been no appeal.

Judgment
or new trial

(3) An appeal lies from the decision of the trial judge to whom the case was remitted by the Divisional Court in accordance with the provisions of this section.

Appeal from
decision on
new trial

113. Any person elected may, at any time after the election and before it is complained of, deliver to the clerk of the municipality a disclaimer, signed by him, to the following effect:

Disclaimer
before
complaint

"I, A.B., hereby disclaim all right to the office of
.....for the.....of
.....in the county (or district) of
.....and all defence of any right I may
have to the same. Dated.....day of
....., 19.... A.B."

114. A person whose election is complained of, unless it is complained of on the ground of bribery or of a corrupt practice

Disclaimer
after
complaint

on his part, may, within one week after service on him of the writ, transmit by registered mail, or deliver to the judge of the court, and to the applicant or his solicitor, a disclaimer signed by him to the following effect:

"I, A.B., upon whom a writ, authorized by *The Municipal Elections Act, 1972*, has been served for the purpose of contesting my right to the office

of....., in the county (or district)

of....., hereby disclaim the office, and all defence of any right I may have to the same.

Dated.....day of....., 19....
A.B."

Duplicate
of disclaimer
to clerk

115.—(1) A person disclaiming shall deliver a duplicate of his disclaimer to the clerk of the municipality, and the clerk shall forthwith communicate it to the council.

Operates as
resignation

(2) A disclaimer in accordance with section 113 or 114 operates as a resignation.

Relief from
costs

(3) A disclaimer in accordance with section 114 relieves the person making it from all liability for costs in an action under section 104.

Procedure
substituted
for *quo*
warranto
proceedings

116. Proceedings for the removal from office of a person whose election is alleged to have been undue or illegal, or who is alleged not to have been duly elected, and proceedings to have the right of a person to sit in a council determined shall be had and taken under the provisions of this Act and not by *quo warranto* proceedings or by an action in any court.

Regulations

117. The Minister may make regulations,

- (a) prescribing forms for the purposes of this Act; and
- (b) prescribing rules for the use of voting machines.

R.S.O. 1970,
cc. 288, 485,
repealed

118. *The Municipal Franchise Extension Act* and *The Voters' Lists Act* are repealed.

Commence-
ment

119. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

120. This Act may be cited as *The Municipal Elections Act, 1972.*

An Act respecting
Municipal Elections

1st Reading

April 20th, 1972

2nd Reading

May 16th, 1972

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

*(Reprinted as amended by
the Administration of Justice Committee)*

BILL 77

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act respecting Municipal Elections

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER AND PUBLISHER

REPORT OF THE COMMISSIONER OF THE
 DEPARTMENT OF THE INTERIOR

UNITED STATES GEOLOGICAL SURVEY



An Act respecting Municipal Elections

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

1. "advance poll" means a poll held under section 64;
2. "assessment commissioner" in relation to a municipality means the assessment commissioner appointed under *The Assessment Act* for the assessment region in which the municipality is situate; R.S.O. 1970,
c. 32
3. "assistant returning officer" means a person appointed by the clerk to assist him in the conduct of the election;
4. "assistant revising officer" means a person appointed by the clerk to assist him in the revision of the list of electors;
5. "candidate" means a person who is nominated for election to office in accordance with this Act and whose nomination is certified by the clerk;
6. "clerk" with respect to a municipality means the clerk of the municipality;
7. "constable" means a constable or a person appointed as a constable by the clerk or the deputy returning officer to maintain peace and order at an election;
8. "corrupt practice" means any act or omission in connection with an election in respect of which an offence is provided under the *Criminal Code* (Canada) or which is a corrupt practice under this Act; R.S.C. 1970,
c. C-34
9. "deputy returning officer" means a deputy returning officer appointed for a polling place under this Act.

10. "election" means an election governed by this Act;
11. "election assistant" means a person appointed by the clerk to assist in the conduct of an election;
12. "election year" means a year in which a regular election is held in accordance with the provisions of this Act;
13. "elector" means a person entitled under this Act to vote in an election;
14. "enumerated" means enumerated under *The Assessment Act*;
15. "local board" means a local board as defined in *The Municipal Affairs Act*;
16. "locality" means territory without municipal organization that is deemed a district municipality under *The Secondary Schools and Boards of Education Act* and *The Separate Schools Act*.
17. "Minister" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs;
18. "municipality" means a city, town, village or township;
19. "new election" means an election other than a regular election;
20. "nomination day" means the last day for filing nominations;
21. "oath" includes an affirmation;
22. "office" means an office, the election to which is governed by this Act;
23. "owner or tenant" means a person enumerated as owner or tenant of land separately assessed or liable to be separately assessed under *The Assessment Act*;
24. "polling day" means the day on which the poll is to be taken under this Act;
25. "polling list" means the list of electors for each polling subdivision revised and certified by the clerk;

R.S.O. 1970, c. 118

R.S.O. 1970, cc. 425, 430

R.S.O. 1970, c. 32

26. "polling subdivision" means a polling subdivision established by the clerk under this Act;
27. "preliminary list" means a preliminary list of electors;
28. "prescribed" means prescribed by the Minister;
29. "public school elector" means an elector who is not a separate school elector;
30. "quorum" means a majority of the members of council or of a local board or the trustees of a police village, as the case may be;
31. "regular election" means an election required to be held biennially under section 10 of this Act;
32. "residence", and similar expressions used in relation to a person, means his true, fixed, permanent home or lodging place to which whenever he is absent he has the intention of returning, subject to the following rules:
 - (a) The place where a person's family resides shall be his residence unless he takes up or continues his residence at some other place with the intention of remaining there, in which case he shall be deemed to be a resident of such other place.
 - (b) The place where a person occupies a room or part of a room as a regular lodger or to which he habitually returns not having any other permanent lodging place, shall be deemed to be his residence;
33. "scrutineer" means any person appointed as a scrutineer by a candidate under section 6 or by a council under section 7;
34. "separate school elector" means an elector who is a Roman Catholic separate school supporter or who is a Roman Catholic and the wife or husband of such supporter and any person entitled to be a separate school elector under *The Separate Schools Act*.

R.S.O. 1970,
c. 430

APPLICATION OF ACT

2.—(1) Notwithstanding any other general or special Act, but subject to subsection 2, this Act applies to and governs all elections, ^{Application of Act}

(a) to the offices of,

- (i) member of the council of a municipality,
- (ii) member of the council of a regional municipality where such office is required to be filled by a vote of the electors of an area municipality,
- (iii) trustee of a police village,
- (iv) member of a local board whose members are to be elected at elections required by law to be conducted by the same officers and in the same manner as elections of members of the council of a municipality;

(b) to obtain the assent of electors on any by-law required or authorized by law to be submitted for their assent at an election; and

(c) to obtain the opinion of the electors on any question required or authorized by law to be submitted to the electors at an election except a question under *The Liquor Licence Act*.

R.S.O. 1970,
c. 250

Application
to newly
created
regional
municipalities

(2) This Act does not apply to the first elections of the members of the council of a regional municipality or an area municipality therein or of the local boards thereof where the Act creating the regional municipality otherwise provides.

ELECTION OFFICIALS

Returning
officer and
revising
officer

3.—(1) Subject to subsections 2 and 3, the clerk of a municipality is the returning officer and revising officer for the purpose of the conduct of elections within the municipality or a part thereof.

Returning
officer in
police
village

(2) For the purpose of elections of trustees of a police village, the clerk of the municipality in which the police village is located shall be the returning officer for the election and where the police village is located in two or more municipalities,

- (a) the nominations for trustees shall be filed with the clerk of the municipality having the largest number of electors of the police village who shall send to the clerk of each municipality concerned by registered mail within forty-eight hours after the closing of nominations the names of the candidates; and

- (b) the clerk of each other municipality in which part of the police village is located shall be the returning officer for the vote to be recorded in his municipality and he shall forthwith report the vote recorded to the returning officer referred to in clause *a* who shall prepare the final summary and announce the vote.

(3) The clerks of municipalities to which subsections 21, 25 and 27 of section 38 of *The Secondary Schools and Boards of Education Act* and subsections 19 and 21 of section 90 of *The Separate Schools Act* apply shall perform the duties as returning officers for the purposes of an election under this Act as are specified in those provisions.

Clerks, duties in relation to school boards
R.S.O. 1970, cc.425, 430

4.—(1) The clerk of every municipality shall for the purposes of an election appoint a deputy returning officer and a poll clerk for each polling place established in the municipality and, as far as is practicable, the deputy returning officers and poll clerks shall be appointed for polling places for the polling subdivisions in which they reside.

D.R.O. and poll clerk

(2) If a deputy returning officer or poll clerk signifies to the clerk that he will not act, the clerk shall appoint another person to act in his place.

Where unable to act

(3) If a deputy returning officer or poll clerk does not attend at the opening of the poll, the clerk shall appoint another person to act in his place.

Non-attendance of D.R.O., poll clerk

(4) If a deputy returning officer through illness or for any other reason becomes unable to perform his duties on polling day, the poll clerk shall perform his duties and exercise all his powers unless the clerk appoints some other person as deputy returning officer for the polling place.

Poll clerk to act for D.R.O.

(5) The clerk may appoint election assistants, assistant returning officers, and assistant revising officers to assist him in the performance of his duties and provide for such clerical and other assistance as is necessary for such purpose.

Assistants

(6) The poll clerk and an election assistant, if any, shall assist the deputy returning officer in the performance of the duties of his office and shall obey his orders.

Duties of poll clerk

(7) Every deputy returning officer, poll clerk, election assistant, assistant returning officer, assistant revising officer, scrutineer, constable and other person authorized to attend at a polling place shall, before entering upon his duties, take and subscribe an oath in the prescribed form.

Oath

Oath of
D.R.O.

(8) The appointment and oath of the deputy returning officer under subsection 7 shall be endorsed upon or attached to the poll book for the polling place for which he is appointed.

Who may
administer
oaths

5.—(1) Except where otherwise provided, an oath may be administered by any person authorized by law to administer oaths in the Province of Ontario.

Idem

(2) The clerk may administer any oath required by this Act, and deputy returning officers and poll clerks may administer any such oath except an oath to be taken by the clerk.

No charge

(3) Every person administering an oath under or for the purposes of this Act shall administer the oath gratuitously.

Scrutineers
appointed by
candidate

6.—(1) Each candidate may appoint such number of persons who are at least sixteen years of age as he considers advisable as scrutineers to represent him in a polling place and at the counting of votes under this Act.

Limit on
number
present

(2) Not more than one scrutineer representing each candidate may be present for any of the purposes specified in subsection 1 at any time.

Scrutineers
appointed
by council

7.—(1) The council of a municipality may, if requested to do so, by resolution appoint as scrutineers in relation to voting on any by-law or question submitted to the electors at an election two persons to attend at the final summing up of the votes by the clerk and two persons to attend at each polling place, one such person in each case on behalf of the persons interested in and desirous of promoting the proposed by-law or voting in the affirmative on the question and the other such person on behalf of the persons interested in and desirous of opposing the proposed by-law or voting in the negative on the question.

Production of
appointment

(2) A person appointed as a scrutineer under this section before being admitted to a polling place shall, if so requested, produce and show his appointment to the deputy returning officer for the polling place.

COSTS OF ELECTION

Cost of
election

8.—(1) Except where otherwise specifically provided by this or any other special or general Act, the cost of an election shall be borne by the municipality in which it is held.

Expenses
of officers

(2) The reasonable expenses incurred by a clerk or any other officer for printing, providing ballot boxes, ballot papers, materials for marking ballot paper, and balloting compart-

ments, and for the transmission of packets, and reasonable fees and for allowances for services rendered under this Act or otherwise on account of an election shall be paid by the treasurer of the municipality to the persons entitled thereto.

(3) Where the clerk of a municipality is required to conduct an election of members of a local board other than at a regular election, the board shall forthwith after its organization reimburse the treasurer of the municipality for the cost of employing deputy returning officers, poll clerks and other election officials and for the reasonable expenses incurred by the clerk or any other officer of the municipality for advertising the times and places for nomination and of polls, for printing, for providing ballot boxes, ballot papers, materials for marking ballot papers, and balloting compartments, for the transmission of packets, and for reasonable costs including the cost of printing and distribution of but not preparation otherwise of the polling list.

Expenses of
by-election
of local
board

TERM OF OFFICE

9.—(1) Notwithstanding any other general or special Act and except where otherwise specifically provided in this Act, the term of office of all offices, the election to which is governed by this Act, shall be two years, commencing on the first day of January in the year following an election year.

Two-year
term

(2) The holders of offices hold office until their successors are elected and the newly elected council or local board is organized.

Until new
council
organized

BIENNIAL ELECTIONS

10.—(1) Subject to subsections 2 and 3, an election shall be held in accordance with this Act in each municipality in the year 1972 and in every second year thereafter for the purpose of electing persons to offices.

Election
year

(2) Where the term of office of a member of a council or of a local board terminates at the end of the year 1973, no election shall be held under this Act for that office in the year 1972, but an election for such office shall be held in accordance with this Act on the first Monday in December, 1973, and the persons elected at such election shall be elected for the year 1974 only.

Where
present
term
terminates
in 1973

(3) Where the term of office of a member of a council or of a local board elected before the coming into force of this Act terminates at the end of the year 1974, no election shall be held for that office in the year 1972.

where
present
term
terminates
in 1974

Vote on
question,
etc.

(4) Where a by-law requires the assent or a question is authorized or required to be submitted to obtain the opinion of the electors, the vote thereon shall be taken at the next regular election unless otherwise provided by order of the Ontario Municipal Board.

POLLING DAY

Polling
day

11. Polling day in a regular election shall be the first Monday in December in each election year.

QUALIFICATION OF ELECTORS

Electors,
resident

12. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and if, at any time during the period of enumeration under section 18, he is,

- (a) resident in such municipality;
- (b) a Canadian citizen or other British subject; and
- (c) of the full age of eighteen years.

Non-
resident

13. A person is entitled to be an elector in a municipality if he is not disqualified under this or any other Act or otherwise prohibited by law from voting in the election and is not resident in such municipality at any time during the period of enumeration under section 18 but is at any time during such period,

- (a) the owner or tenant of land in the municipality or the spouse of such an owner or tenant;
- (b) a Canadian citizen or other British subject; and
- (c) of the full age of eighteen years.

Evidence of
citizenship

14. For the purpose of sections 12 and 13, a statutory declaration by a person claiming that he is a Canadian citizen or other British subject is *prima facie* proof of the fact declared to.

QUALIFICATION OF ELECTORS TO VOTE ON MONEY BY-LAWS

Who may
vote on
money
by-laws

15. Every person entitled to be an elector in a municipality under section 12 or 13 is entitled to be an elector to vote on a money by-law submitted for the assent of the electors of the municipality if, he is,

- (a) the owner of land assessed in the municipality; or
- (b) the tenant of land assessed in the municipality under a lease which extends for the time for which the debt or liability to be created or in which the money to be raised by the proposed by-law is payable or for twenty-one years and under which he covenants to pay all municipal taxes in respect of the land other than local improvement rates and he makes and files with the clerk not later than the last day for making complaints for revision of the preliminary list a declaration stating that he is such a tenant.

16.—(1) A corporation that is the owner of land assessed in a municipality on the last assessment roll or is a tenant of such land under a lease that complies with the requirement of clause b of section 15 is entitled to nominate a person who is qualified to be an elector under section 12 or 13, to be an elector to vote on a proposed money by-law submitted for the assent of the electors of the municipality. Corporate nominee

(2) A corporation that is the owner of residential property in a municipality consisting of units or apartments that are owned on a co-operative basis may nominate a person who is qualified to be an elector under section 12 or 13, to be an elector to vote on proposed money by-laws submitted for the assent of the electors in the municipality for each such unit or apartment that is separately assessed on the latest assessment roll for the municipality. Idem

(3) Where a corporation entitled to appoint a nominee to vote on its behalf desires to vote on a proposed money by-law, it shall, not later than the day for filing complaints for the revision of preliminary lists as hereinafter provided, file with the clerk of the municipality an appointment in writing of a person to vote on a proposed money by-law as its nominee and on its behalf. Appointment to be filed

POLLING SUBDIVISIONS

17.—(1) Subject to the provisions of subsection 2, the clerk shall divide the municipality into polling subdivisions and shall not later than the first day of June in an election year inform the assessment commissioner of the boundaries of each subdivision. Polling subdivisions

(2) A polling subdivision shall not,

Size

- (a) so far as is practicable, contain more than 350 electors; or

- (b) extend beyond the boundaries of one ward or of an electoral district established for the purposes of the election of members to the Assembly.

PREPARATION OF PRELIMINARY LIST OF ELECTORS

Preliminary
list of
electors

18. An assessment commissioner shall, during the period commencing on the Tuesday following the first Monday in September and ending on the second Tuesday of October in an election year, from an enumeration taken during that period, compile for each polling subdivision in each municipality and locality in his assessment region a list containing the name and address of each person who during such period meets the requirements for an elector under section 12 or 13 and such list shall signify opposite the name of an elector,

- (a) who does not reside in the municipality, that he does not so reside;
- (b) who is enumerated as a Roman Catholic separate school supporter, that he is a separate school elector;
- (c) who is a Roman Catholic and the spouse of a Roman Catholic separate school supporter, that such spouse is a separate school elector;
- (d) who is enumerated as a separate school elector in accordance with *The Separate Schools Act*, that he is a separate school elector;
- (e) who is an owner or tenant of land in the municipality, that he is such an owner or tenant.

R.S.O. 1970,
c. 430

For polling
subdivision
where no
wards

19.—(1) In a municipality or locality that is not divided into wards, the name of an elector shall be entered on the preliminary list,

- (a) for the polling subdivision in which the elector resides; or
- (b) if the elector does not reside in the municipality or locality, for the polling subdivision in which he or his spouse is owner or tenant of land.

For one
polling
subdivision
only

(2) The name of an elector shall not be entered under this section on the preliminary list for more than one polling subdivision.

For polling
subdivision
where wards

20.—(1) In a municipality that is divided into wards, the name of an elector shall be entered in the preliminary list,

- (a) where he resides in the municipality, for the polling subdivision in which he resides; or
- (b) where he does not reside in the municipality, for a polling subdivision of a ward in which he or his spouse is the owner or tenant of land.

(2) The name of an elector shall not be entered under this section on the preliminary list for more than one polling subdivision ^{For one polling subdivision}.

21. The assessment commissioner shall deliver the list of electors prepared by him under sections 18, 19 and 20 to the clerk and, in respect of a locality, to the secretary of the school board on or before the second Tuesday of October in an election year. ^{List delivered to clerk}

PRELIMINARY LIST OF ELECTORS

22. Immediately after receipt of the list of electors from the assessment commissioner, the clerk shall cause the list to be printed or reproduced and such list shall be the preliminary list of electors. ^{Printing of list}

REVISION OF PRELIMINARY LIST OF ELECTORS

23.—(1) Immediately after the printing or reproduction of the preliminary list of electors, the clerk shall, ^{Revision of list}

- (a) fix the last day for filing with the clerk complaints for revision of the list for the purpose of making additions or corrections to or deletions from it and the places at which and the times when revision of the list will be commenced;
- (b) post one copy of the list in a conspicuous place in his office and one copy of the list for each polling subdivision in a conspicuous place in the polling subdivision for which it is prepared; and
- (c) publish notice in a newspaper having general circulation in the municipality, of the date of the posting of the list, the last day for filing complaints, and the places and times at which the revision of the list will be commenced and, where there is no such newspaper, the notice shall be published in such manner as the clerk may direct and shall be posted in at least two conspicuous places in the municipality.

(2) The day of posting copies of the preliminary list and of publishing the notice under subsection 1 shall be at least eight days before the last day for filing complaints. ^{Time for posting}

Notice
affixed
to list

(3) The clerk shall affix to the outside or cover of each copy of the preliminary list of electors for an election a notice in prescribed form, over his name,

- (a) stating that the list is a preliminary list of all electors for the election prepared as required by this Act;
- (b) setting forth the date on which the list was posted up in the office of the clerk;
- (c) giving notice to all electors to examine the list for the purposes of making additions or corrections to or deletions from the list; and
- (d) stating the last day for filing complaints concerning such additions, corrections or deletions.

Copies
of list

(4) At the time of posting a notice under subsection 1, the clerk shall deliver or mail one copy of the preliminary list to,

- (a) the assessment commissioner;
- (b) every member of the council of the municipality and every trustee of a police village all or part of which is in the municipality;
- (c) the secretary of every local board the members of which are required to be elected at an election to be conducted by the clerk;
- (d) the clerk of the council of the county or of the district, regional or metropolitan municipality in which the municipality is situate;
- (e) the clerk of the municipality responsible for conducting the elections in any combined area for school board purposes;
- (f) the member of the House of Commons and the member of the Assembly representing the electoral district in which the municipality or any part thereof is situate.

Candidates
entitled
to copies

(5) Every candidate for any office in an election is entitled to be furnished by the clerk with two copies of the preliminary list of electors entitled to vote in an election to such office.

Revision
of list

24.—(1) The clerk or an assistant revising officer shall attend at the revision of the preliminary list and shall con-

tinue to do so from day to day or as required until all complaints filed before the last day for filing complaints for revision of the list have been disposed of.

(2) Notwithstanding that the time for filing complaints for revision of the preliminary list under section 23 has not expired, the clerk may proceed to consider such complaints as from time to time may be received and may determine and dispose of them. When complaints may be considered

25.—(1) A person whose name has not been included in the preliminary list for a polling subdivision in a municipality or whose name has been included therein but the information relating to him set out therein is incorrect or whose name has been included therein as a non-resident and who is qualified to be an elector in more than one ward in the municipality may, personally or by his agent, apply to the clerk or assistant revising officer of the municipality on or before the date fixed by the clerk as the last day for filing complaints for revision of the list to have his name included on the list or to have such information corrected or to have his name deleted from the list and to have it entered in the list of another ward in which he or his spouse is the owner or tenant of land. Application to enter name in list or correct information

(2) Every person applying under this section shall sign an application in the prescribed form in which all the information shall be sufficiently filled in, either by the applicant personally or by the clerk or assistant revising officer at the applicant's request, and before entering his name on the list or before correcting the preliminary list, as the case may require, the clerk or assistant revising officer shall satisfy himself that the applicant understands the effect of the statements in the application and that he is an elector entitled to have his name included on the list or to have the list corrected pursuant to his request. Application form

(3) When the language of an applicant under this section is not understood by the clerk or assistant revising officer, an interpreter provided by the applicant may be sworn and may act, but in the event of inability to secure an interpreter, the application may be refused. Interpreter

(4) If it appears to the clerk or assistant revising officer that an applicant under this section understands the effect of the statements in the application and that the applicant is an elector whose name should be included in the polling list or that the amendment thereof that he requests should be made, he shall certify accordingly by signing the application. Decision to amend list

Refusal to
amend list

(5) If, in the opinion of the clerk or assistant revising officer, the statements made by an applicant in his application under this section do not show that the applicant is an elector entitled to have his name included in the polling list or to have the list amended as requested, he shall inform the applicant that his application is refused, stating the reasons for such refusal, which reasons he shall endorse on the application form.

Application
for deletion
of name

26.—(1) At any time after the posting of the preliminary list of electors for a municipality and until the last day for filing complaints for revision thereof, any person may file with the clerk a complaint, in the prescribed form, for deletion from the list of the name of a person who is not entitled as an elector to have his name entered thereon.

Notice to
person
where name
objected to

(2) The clerk, upon receipt of a complaint under this section, shall forthwith cause to be served personally on or sent by registered mail to the person concerning whom the complaint is made at the address given in the preliminary list and at such other address, if any, as may be mentioned in the complaint, a notice requiring such person to appear in person or by his representative before him on a day to be fixed in the notice.

Copy of
complaint to
be served

(3) A copy of the complaint shall accompany a notice served or sent under this section.

Decision of
clerk, etc.

(4) On the day for the hearing fixed in a notice given under this section, the person filing the complaint shall attend before the clerk or assistant revising officer and establish to his satisfaction the validity of such complaint and the clerk or assistant revising officer after receiving an explanation of the facts alleged and after hearing what is alleged by the person concerning whom the complaint was made, may delete the name from the preliminary list if he is satisfied of the validity of the complaint.

Where person
objected to
does not
appear

(5) Where the person concerning whom a complaint has been made under this section does not attend before the clerk or assistant revising officer on the day of hearing fixed in the notice and the clerk or assistant revising officer is satisfied that due notice of complaint has been given to the person or that he could not be found and the registered notice could not be delivered, the clerk or assistant revising officer may delete the name of such person from the preliminary list of electors but shall not do so except upon evidence under oath which satisfies him that the name should not have been included in the list.

27. Subject to section 31 or 54, the decision of the clerk or assistant revising officer to enter on or delete the name of a person as an elector from the preliminary list of electors is final for the purposes of this Act. Decision final

28. Upon determination of all complaints for revision of the preliminary list of electors for a municipality filed on or before the last day for filing complaints for revision thereof, the clerk shall compile a statement of additions and changes to and deletions from the list and shall send a copy of such statement so certified to each person specified in subsections 4 and 5 of section 23 Statement of changes

POLLING LIST

29.—(1) After compilation of the statement of additions, changes and deletions required under section 28, the clerk shall prepare the polling list of electors for each polling subdivision in his municipality by making the appropriate changes in the preliminary list in accordance with the statement and shall certify the list as so revised Polling list

(2) The clerk shall, in preparing the polling list of electors under subsection 1, enter after the name of every elector who is a tenant and who has filed a declaration under section 15 that he is entitled to be an elector to vote on a money by-law the words "Entitled to vote on the by-law" and an elector shown as a tenant on the list without such words added after his name is not entitled to vote on the by-law. Tenants entitled to vote on by-law

(3) Where a corporation has appointed a nominee to vote on its behalf on a proposed money by-law in accordance with section 16, the clerk shall enter the name of the nominee in the polling list for the polling subdivision in which the corporation has its chief office in the municipality as a nominee of a corporation entitled to vote on the by-law in such polling subdivision and such nominee shall be deemed to be an elector so entitled to vote. Nominee of corporation entered in list

30. Except as provided in sections 31, 49 and 54 no person is entitled to vote at an election unless his name appears on the polling list certified under section 29 for the polling subdivision in which he tenders his vote. Only persons on list entitled to vote

31.—(1) If a person whose name is omitted from a polling list certified under section 29, at any time after preparation of the polling list and prior to the closing of the poll, satisfies the clerk of the municipality on oath that he was during the period of enumeration entitled to be an elector under section 12 or 13 and to have his name entered on a polling list for a polling subdivision in the municipality, the clerk may issue a Entry of name on list by D.R.O.

certificate in the prescribed form authorizing the deputy returning officer for such polling division to enter the name of the elector on the polling list for the subdivision and to permit such person to vote, but such vote must be cast before the closing of the poll.

Idem

(2) Where the name of a person is omitted from the polling list as finally revised and such person was during the period of enumeration otherwise qualified to be entered on the polling list except that he was not a Canadian citizen or other British subject or of the full age of eighteen years, if such person produces for the inspection of the clerk,

(a) where he was not a Canadian citizen or other British subject, his certificate of naturalization or other conclusive evidence that he has become a Canadian citizen or other British subject; or

(b) where he was not eighteen years of age, his birth certificate or other conclusive evidence that he has become eighteen years of age,

the clerk may issue a certificate authorizing the proper deputy returning officer to enter the name of such person on the polling list to entitle him to vote as if his name had been entered thereon before the list was revised.

Certificate
to be
produced

(3) A person is not entitled to vote under this section unless at the time he requests a ballot he produces and files with the deputy returning officer the certificate given by the clerk under subsection 1.

Copy to
assessment
commis-
sioner

(4) The clerk shall furnish a copy of each certificate issued under this section to the assessment commissioner.

NOMINATIONS

Who may be
nominated

32. Any person who is qualified to hold an office under the Act constituting the office may be nominated as a candidate for such office.

Nomination
day

33.—(1) Nomination day for a regular election shall be Monday, the twenty-first day before polling day.

Period for
nomination

(2) The period during which candidates in an election may be nominated shall be the four days immediately preceding nomination day and until 5 o'clock in the afternoon of nomination day.

Notice of
nomination
period

(3) The clerk shall publish, at least six days prior to the commencement of the period during which candidates in an

election may be nominated, notice of the time of commencement and closing of such period and of the offices for which candidates in the election may be nominated in a newspaper having general circulation in the municipality and, where there is no newspaper having a general circulation in the municipality, the notice shall be published in such manner as the clerk may direct and shall be posted in at least two conspicuous places in the municipality.

34.—(1) A candidate may be nominated for an office by the filing, during the period in which candidates may be nominated, in the office of the clerk during his normal office hours of a nomination paper in prescribed form, which, ^{How nominated}

- (a) shall be signed by at least ten electors whose names are entered in the polling lists of electors entitled to vote in an election to such office;
- (b) shall state the name, occupation and address of the candidate in such manner as will identify him and the office for which he is nominated; and
- (c) shall state the name and address of each elector signing the nomination paper and, where the office for which the candidate is nominated is a member of a school board, that such nominator is a public school elector or a separate school elector, as the fact is.

(2) No nomination is valid unless there is filed with the nomination paper a consent in writing to the nomination and a declaration of qualification in the prescribed form by the person nominated. ^{Consent and declaration to be filed}

(3) A nomination paper nominating a candidate for an office the holder of which is required to be elected by public school electors shall be signed by public school electors only. ^{Public school nominators}

(4) A nomination paper nominating a candidate for an office the holder of which is required to be elected by separate school electors shall be signed by separate school electors only. ^{Separate school nominators}

(5) Each candidate for election to an office shall be nominated by a separate nomination paper, but an elector may sign the nomination papers of different candidates. ^{Separate nomination papers}

(6) After a nomination paper is filed with the clerk it shall remain in the possession of the clerk. ^{Clerk to keep nomination paper}

(7) The onus is on the person nominated for election to an office to file a *bona fide* nomination paper. ^{Onus on person nominated}

Endorsation
by clerk

35.—(1) Where a nomination paper is filed in the office of a clerk, the clerk or his assistant returning officer shall endorse upon it the date and time of its filing.

Certificate
of clerk

(2) Where a nomination paper for a candidate for an office is filed in the office of a clerk prior to nomination day, the paper shall forthwith be examined by the clerk and, if he is satisfied that the requisite number of the nominators whose signatures appear on the nomination paper are electors entitled to vote for the office, he shall so certify in writing.

Posting

(3) As the nomination papers are certified by the clerk he shall cause the name, occupation and address of each candidate nominated and the office for which the candidate is nominated to be posted up in his office or other conspicuous place open to inspection by the public.

Where
filed on
nomination
day

(4) Where the nomination paper for a candidate for an office is filed in the office of a clerk on nomination day and before the time fixed for the close of nominations,

(a) the clerk shall accept the nomination paper and cause the name of the person nominated to be posted up in accordance with subsection 3;

(b) if, on examination of the nomination paper prior to 5 o'clock in the afternoon on the day following nomination day, it appears to the clerk that the requisite number of nominators whose signatures appear on the nomination paper are not electors entitled to vote for the office, he shall reject the nomination and give notice of the rejection immediately by registered mail to the person nominated and all candidates for that office, but if he is satisfied that the nominators meet such requirements, he shall so certify in writing.

Certification
by clerk

(5) Certification by the clerk in accordance with subsection 2 or 4 with respect to a nomination paper shall be conclusive evidence of the facts certified.

List of
candidates

(6) The clerk shall establish and maintain in his office a list setting out the name and residence of every candidate whose nomination has been certified under this section for the respective offices for which candidates may be nominated in the order of certification and copies of this list shall be prominently displayed in one or more locations immediately prior to the time fixed for the closing of nominations.

DEATH OF A CANDIDATE

36. If as a result of a candidate nominated for election to an office dying before the close of the poll for the election, Election on death of candidate

- (a) a person would be elected by acclamation to such office, the election to such office is void and a new election shall be held to fill such office; or
- (b) no person would be elected by acclamation to such office, the name of the deceased candidate shall be omitted from the ballots or if the ballots have already been printed, the clerk shall cause notice of the death of the candidate to be posted up in a conspicuous place in every polling place and the election shall be proceeded with as if the deceased candidate had not been nominated.

WITHDRAWAL OF NOMINATIONS

37.—(1) A person nominated as a candidate in an election may withdraw his nomination by instrument in writing, verified by his affidavit and delivered to the clerk before 5 o'clock in the afternoon of the day following nomination day. Withdrawal of nomination

(2) Where a person has been nominated for more than one office, he may withdraw in respect of one or more offices for which he is nominated by filing his withdrawal in writing with the clerk in his office before 5 o'clock in the afternoon of the day following nomination day and in default he shall be deemed to be nominated for the office for which he was first nominated and to have withdrawn his nomination for any other office. Where nominated in more than one office

ACCLAMATIONS

38.—(1) If no more candidates are nominated for any office than the number to be elected, the clerk shall forthwith after 5 o'clock on the afternoon of the day following nomination day declare that candidate or those candidates duly elected. Acclamation

(2) If more candidates are nominated for an office than the number to be elected but one or more candidates withdraws his nomination so that the number remaining is no more than the number required to be elected, the clerk shall forthwith after 5 o'clock on the afternoon of the day following nomination day declare the remaining candidate or candidates to be duly elected. Idem

Vacancy

(3) If the number of candidates declared to be elected to an office under subsection 1 or 2 is less than the number to be elected to such office so that there is a vacancy, a new election shall be held to fill the vacancy.

Where quorum not elected

(4) Where in any election the total number of members of the council of a municipality or of a local board, as the case may be, declared elected under this section and those elected as a result of the poll in the election is less than a quorum of the council or of the local board, the council or local board in office for the preceding year shall continue in office until a new election under subsection 3 is held and the number of members of the council or local board equals or exceeds the quorum.

NOTICE OF POLL**Poll required**

39.—(1) Where more candidates are nominated for election to an office than the number required to fill that office, the clerk shall hold a poll to elect the holder of that office.

Notice of poll

(2) Notice of the time for the holding of the poll in an election, including the advance poll, shall be given by the clerk forthwith after it has been determined that a poll is required, by publishing in a newspaper having general circulation in the municipality and where there is no such newspaper, the notice shall be published in such manner as the clerk may direct, and shall be posted in at least two conspicuous places in the municipality.

VOTING BY BALLOT**Voting by ballot**

40.—(1) Where a poll is held in an election, the votes shall be given by ballot in prescribed form.

Voting machines

(2) In place of using ballot papers under this Act, with approval of the Minister, the council of a municipality may by by-law authorize the use at an election of voting machines for one or more polling subdivisions.

PREPARATION AND FORM OF BALLOT**Ballots**

41.—(1) A clerk who is required to hold a poll under section 39 shall prepare and cause to be printed a sufficient number of ballots in the prescribed form for use in the election.

Nomination of candidate must be certified

(2) The name of a person shall not be included in a ballot as a candidate for office unless his nomination as a candidate for such office has been certified by the clerk under section 34.

(3) Subject to subsection 5, the names of the candidates shall be shown on a ballot in order of their surnames alphabetically arranged, with given names preceding the surnames, and with the surnames in bold type and the occupation of the candidate shall be stated. Order of names

(4) Where there are two or more candidates for election to an office whose given and surnames and occupations are identical or so nearly identical as to create the possibility of confusion, the address of all candidates for election to such office shall be shown on the face of the ballot for such office immediately under their names and in sufficient detail as to identify each candidate. Where addresses to be shown

(5) Except as provided in subsection 4, no identification such as a title, honour, decoration or degree shall be included with any candidate's name on a ballot to be used in an election, but a name commonly called a nickname or any other name by which a candidate is commonly known may be used on the ballot as the name or part of the name of the candidate. Nicknames and titles

(6) There shall appear on the ballot to the right of each candidate's name a circle or a circular space suitable for the marking of the ballot. Space for indicating vote

(7) All ballots for election to the same office shall be of the same description and as nearly alike as possible and the names and occupations, and the addresses if given, of the candidates shall be in one colour and the remainder of the face of the ballot shall be another colour, but different colours may be used for ballots to be used for election to different offices. Ballots for same office to be alike

(8) A ballot may contain instructions as to the number of candidates for which a voter may vote in the following words: "You are entitled to vote for candidates for this office". Number for which vote may be given

(9) The ballot papers for voting to obtain the assent or the opinion of electors on any by-law or question shall be in the prescribed form. Ballots re questions

42.—(1) For an election in a municipality in which the members of council are elected by wards, there shall be prepared one set of ballots for all the polling subdivisions containing the names of the candidates for the office of mayor, another set for all the polling subdivisions containing the names of the candidates for the office of reeve, or reeve and deputy reeve, and another set for each ward containing the names of the candidates for the office of alderman or councillor for the ward. Wards in municipality

General
vote in
city or town

(2) For an election in a city or town in which the members of council are elected by general vote, there shall be prepared for all the polling subdivisions one set of ballots containing the names of the candidates for the offices of mayor, or mayor and reeve, or mayor, reeve and deputy reeve, and another set containing the names of the candidates for the office of alderman or councillor.

Borough in
Metro.
Toronto

(3) For an election in a township that constitutes a borough within The Municipality of Metropolitan Toronto, one set of ballots shall be prepared for all the polling subdivisions containing the names of the candidates for the office of mayor, another set of ballots for all the polling subdivisions containing the names of the candidates for the office of controller and another set for each ward containing the names of the candidates for the office of alderman.

Village or
township

(4) For an election in a village or township there shall be prepared one set of ballots containing the names of the candidates for the office of reeve or of reeve and deputy reeve, and for the office of councillor.

By-law
providing
for separate
sets

(5) The council of a town may by by-law provide that the ballots for an election to the offices of mayor, reeve and deputy reeve shall be prepared in separate sets and, the council of a village or township may, by by-law provide that the ballots for an election to the offices of reeve, deputy reeve and councillor shall be in separate sets.

When to be
passed

(6) A by-law for the purposes mentioned in subsection 5 shall be passed not later in the election year than the first day of November and remains in force until repealed, and while in force the prescribed ballots shall be prepared accordingly.

Separate sets
for
controller,
local board,
by-laws, etc.

(7) There shall also be separate sets of ballots,

(a) containing the names of the candidates for the office of,

- i. controller,
- ii. member of a local board,
- iii. trustee of a police village, or
- iv. member of the council of a regional municipality;

(b) for obtaining the assent of the electors on any by-law or the opinion of the electors on any question required or authorized to be submitted to them at an election.

(8) Where more than one by-law or question is to be submitted to the electors at one election, all of such by-laws or questions may be placed on one ballot paper. More than one by-law, etc.

43.—(1) In place of using separate ballots under this Act, the council of a municipality may, by by-law passed and approved by the Minister prior to the first day of November in an election year, authorize the use at a municipal election of composite ballots in such form subject to subsections 1 to 8 of section 41, as the by-law prescribes. Composite ballots

(2) A composite ballot may contain,

Contents

(a) the names of candidates for the offices of member of council, member of a school board, member of a public utility commission or member of any other board, commission or body the members of which are required to be elected by the electors of the municipality or for any one or more of such offices; and

(b) any by-law or question authorized or required by law to be submitted to the electors for their assent or opinion.

(3) No elector shall be given a composite ballot containing the names of candidates for an office or containing a question or by-law for which he is not entitled to vote.

Not to be given to elector not entitled to vote for office on ballot

(4) A by-law passed under this section remains in force from year to year until repealed.

By-law in force until repealed

POLLING PLACES

44.—(1) Subject to section 45, the clerk shall provide for each election at least one polling place for each polling subdivision in a place that is most central or most convenient for the electors and is furnished with light and heat and such other accommodation and furniture as may be required, but the polling place may be provided outside the limits of the polling subdivision. Polling place

(2) Every polling place for an election in a municipality shall be situate in the municipality, except that where a polling subdivision in a township adjoins an urban municipality, the polling place for the polling subdivision may be within the limits of the urban municipality. Idem

(3) Every polling place shall be furnished with compartments in which voters may mark their ballots without other persons being able to see how they are marked and it is the duty of the clerk and the deputy returning officer respectively to Compartments

ensure that a sufficient number of compartments is provided at each polling place.

United
subdivisions

(4) The clerk may unite two or more adjoining polling subdivisions and provide one polling place for the united subdivisions.

Additional
places

(5) The clerk may provide such additional polling places in any polling subdivisions as are required having regard to the extent of the subdivision, the remoteness of any number of its voters from the polling place and number of voters that may conveniently vote at one polling place.

Designation
of places

(6) Where there are two or more polling places in a polling subdivision, each polling place shall be designated by the numbers of the lots and concessions or the numbers and names of the streets at which the electors reside or that designate the properties in respect of which the electors are qualified to vote therein, or by the initial letters of the surnames of the electors who are qualified to vote therein, that is to say, A to M and N to Z, or as the case may be, and an elector is entitled to vote at the appropriate polling place designated accordingly.

Notice of
location of
polling
place

(7) In municipalities having more than 5,000 electors, the clerk shall mail or cause to be delivered to each dwelling unit in the municipality a notice advising the elector or electors therein of the location of the polling place in which that elector or those electors is or are to vote.

Polling
places in
institutions

45.—(1) Where in a municipality there is situate a hospital or other institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or the armed forces of any member of the Commonwealth, or who are blind or deaf, a Workmen's Compensation hospital, a home for the aged, a nursing home or other institution of twenty beds or more, in which chronically ill or infirm persons reside, a polling place shall be provided in such institution or upon the premises, and for the purpose of polling, the institution shall be deemed to be a polling place, and every person resident in the institution who is entered on the polling list shall vote at such polling place.

Attendance
upon patients
to take
vote

(2) Where a patient of such a hospital or other institution is bed-ridden or is unable to walk, it is lawful for the deputy returning officer and poll clerk with the candidates or their scrutineers to attend upon such person for the purpose of receiving his ballot, but no candidate or scrutineer shall be present where the ballot of any such voter is marked under section 61.

(3) When every person whose name is entered on the polling list for a polling place governed by this section has voted, the deputy returning officer for the polling place may close the poll at such polling place, but the vote cast at such polling place shall not be counted until after the close of the regular polling places. ^{Closing of poll}

SUPPLIES AND EQUIPMENT FOR POLLING PLACES

46.—(1) The clerk shall, before polling day, cause to be delivered to every deputy returning officer in his municipality, ^{Supplies for polling place}

- (a) a ballot box for his polling place;
- (b) a sufficient number of ballots to supply the electors on the polling list of his polling place;
- (c) a sufficient number of the prescribed directions for the guidance of voters for the purposes of the polling place;
- (d) the polling list and a blank poll book for the polling place;
- (e) all materials necessary for electors to mark their ballots; and
- (f) such other materials as are prescribed.

(2) A ballot box shall be made of durable material, provided with lock and key, and so constructed that the ballots can be deposited therein and cannot be withdrawn without unlocking the box. ^{Ballot box}

(3) When delivering the ballots for a polling place to a deputy returning officer the clerk shall certify the number of ballots so delivered and upon receiving them the deputy returning officer shall make a count of the ballots and forward the prescribed receipt therefor to the clerk, and shall keep the certificate for return to the clerk with the other documents required to be returned to him under section 76. ^{Clerk to certify number of ballots}

(4) Every deputy returning officer before opening the poll, or immediately after he has received the printed directions from the clerk if they were not received before opening the poll, shall cause them to be placarded outside the polling place and in every compartment of the polling place, and shall see that they remain so placarded until the close of the polling. ^{Directions to be placarded}

WHERE AND HOW OFTEN ELECTORS MAY VOTE

Number
of votes
that
may be
given by
an elector

47. An elector whose name appears on the polling list for a polling subdivision or who presents a certificate to vote there under section 31, 48 or 54, is entitled to vote in an election in such subdivision in accordance with the following rules:

1. He is entitled to vote once only for one candidate for mayor, reeve or deputy reeve.
2. He is entitled to vote for as many candidates for controller as there are controllers to be elected but once only for each candidate.
3. Where the election of aldermen, councillors, trustees or members of local boards is by general vote, he is entitled to vote for as many candidates for such offices as there are candidates to be elected but once only for each candidate.
4. Where the aldermen, councillors, trustees or members of local boards are elected by wards, he is entitled to vote,
 - i. if resident in the municipality, in the polling subdivision in which he resides ; or
 - ii. if not resident in the municipality, in the polling subdivision in which his name appears on the polling list,

for as many candidates for such offices as there are candidates to be elected for the ward but once only for each candidate.

5. Where the election is to the office of member of a school board to be elected by public school electors in a municipality or a part thereof, or in a combination of municipalities, in which the polling subdivision is located, a public school elector is entitled to as many votes as there are members to be elected by the public school electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.
6. Where the election is to the office of member of a school board to be elected by separate school electors

in a municipality or in a part thereof, or in a combination of municipalities, in which the polling subdivision is located, a separate school elector is entitled to as many votes as there are members to be elected by the separate school electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate.

7. An elector who is entitled to vote in respect of any by-law or question authorized or required by law to be submitted for the assent or opinion of the electors is entitled to vote once only with respect to such by-law or question.

48.—(1) Subject to subsection 2, at the request of a person whose name is entered on the polling list for a polling place in a municipality who has been appointed a deputy returning officer or poll clerk at another polling place, the clerk of the municipality shall give him a certificate that he is entitled to vote at the polling place at which he is stationed during the polling day.

Voting of
D.R.O. and
poll clerk
where
employed

(2) No certificate shall be issued under this section entitling an elector in a municipality that is divided into wards to vote at a polling subdivision in a ward different from the ward in which the polling place at which the elector is otherwise entitled to vote is situate.

Where
municipality,
divided into
wards

(3) The clerk shall not give a certificate under this section until he has ascertained by reference to the polling list or to a certificate under section 31 that the applicant is entitled to vote, and after giving the certificate he shall forthwith give notice in writing thereof to the deputy returning officer for the polling place at which the applicant is by the polling list or certificate under section 31 to be entitled to vote, and the person to whom the certificate has been given is not thereafter entitled to vote at such polling place.

When
certificate
may be
given

(4) The certificate shall designate the polling place at which the person is to be permitted to vote.

Certificate

(5) The clerk shall keep a list in which he shall enter before he delivers a certificate under this section,

List of
certificates

- (a) the name and residence of the person to whom he gives the certificate;
- (b) the polling place at which the person is authorized to vote under the certificate;

- (c) the polling place at which the person appears by the polling list to be entitled to vote;
- (d) whether the certificate is granted to such person as deputy returning officer or poll clerk; and
- (e) if a certificate is refused, the name of the person applying for the certificate with the grounds of refusal,

and the list shall be open to inspection by any candidate scrutineer or elector.

Certificate
entitles
person to
vote

49.—(1) A person who produces a certificate given to him under section 48 is entitled to vote at the polling place designated therein, but the certificate does not entitle him to vote there unless he has been actually engaged there as a deputy returning officer or poll clerk during polling day.

Entry in
poll book

(2) The deputy returning officer shall enter or cause to be entered in the column for remarks in the poll book opposite the name and residence of the person voting under the authority of a certificate, the words "Voted under Certificate".

Certificate
to be given
to D.R.O.

(3) A person voting under the authority of a certificate shall deliver it to the deputy returning officer before receiving his ballot.

To be kept
in envelope

(4) The deputy returning officer shall enclose all certificates to which this section applies in one envelope.

PROCEDURE AT POLL

Hours poll
to be
open

50. Every polling place shall be open for the purpose of taking the poll at every election from 11 o'clock in the forenoon until 8 o'clock in the afternoon of polling day.

When
D.R.O. to
attend poll

51.—(1) A deputy returning officer shall attend at the polling place for which he was appointed at least fifteen minutes before the hour fixed for opening the poll.

Counting of
ballots before
opening of
poll

(2) During the period of fifteen minutes before the opening of the poll, the scrutineers who are entitled to be present in a polling place during polling hours are entitled to inspect the ballots and all other papers, forms and documents relating to the poll.

Inspection,
sealing of
ballot box

52. A deputy returning officer shall, immediately before opening the poll at his polling place, show the ballot box to such persons as are present in the polling place, so that

they may see if it is empty, and he shall then lock the box and place his seal upon it in such a manner as to prevent it being opened without breaking the seal, and he shall keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present, and shall keep the box so locked and sealed until the box is required to be opened for the purpose of counting the votes under section 69.

53.—(1) Where a person tenders his vote, the deputy returning officer shall proceed as follows: Duties of
D.R.O. on
tender of
vote

1. He shall ascertain that the name of such person or a name apparently intended for it is entered on the polling list for the polling subdivision or that such person is entitled to vote under a certificate issued by the clerk pursuant to section 31 or 48.
2. He shall record or cause to be recorded by the poll clerk, in the proper columns of the poll book, the name and residence of such person.
3. If the deputy returning officer is satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote and if no candidate or scrutineer objects to voting by such person, the deputy returning officer shall put his initials on the back of a ballot paper, so placed that when the ballot is folded they can be seen without opening it and shall deliver the ballot paper to such person.
4. If voting by such person is objected to by any candidate or scrutineer, the deputy returning officer shall enter the objection or cause it to be entered in the poll book, by writing opposite the name of such person in the proper column the words "*Objected to*" and the name of the candidate by or on whose behalf the objection was made and the deputy returning officer shall require such person to take the prescribed oath.
5. If the deputy returning officer is not satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote, although no candidate or scrutineer has objected, he may require such person to take the prescribed oath.
6. If such a person having been required to take the oath refuses to do so, the deputy returning officer

shall enter or cause it to be entered opposite the name of such person in the proper column of the poll book the words "*Refused to be sworn*" or "*Refused to affirm*" according to the fact and a ballot paper shall not be delivered to such person.

7. If such person takes the oath, the deputy returning officer shall enter or cause to be entered opposite such person's name in the proper column of the poll book the word "*Sworn*" or "*Affirmed*" according to the fact, shall put his initials on the back of a ballot paper, so placed that when the ballot is folded they can be seen without opening it, and shall deliver the ballot paper to such person.
8. The deputy returning officer may, and upon request shall, either personally or through the poll clerk, explain to the elector as concisely as possible the mode of voting.

Disqualifica-
tion of
prisoners,
mentally ill,
etc.

(2) A person who on polling day is a prisoner in a penal or reform institution, or a patient in a mental hospital, or who has been transferred from a mental hospital to a home for special care as mentally incompetent is disqualified from voting at any election and no ballot shall be furnished to such a person.

Elector in
polling
place at
closing

(3) Every elector qualified to vote at a polling place who is inside the polling place at the time fixed for closing the poll is entitled to vote.

Entry of
name on
polling list
by D.R.O.

54.—(1) If a person representing himself to be an elector applies to a deputy returning officer at a polling place for a ballot and his name does not appear in the polling list or in a certificate issued under section 31 or 48 as entitled to vote at the polling place, he is entitled to have his name entered on such polling list and to receive a ballot and to vote if he takes a declaration in the prescribed form and otherwise establishes his identity to the satisfaction of the deputy returning officer.

Idem

(2) The deputy returning officer shall enter or cause to be entered on the polling list and on the poll book the name of the elector and shall enter in the poll book a note of his having voted after being sworn as provided in subsection 1.

Where it
appears
person voted
in place
of elector,
etc.

55.—(1) Where an elector entitled to vote at a polling place applies for a ballot paper and it appears that another person has voted as such elector or that an entry has been made on the polling list in error that such elector has polled his vote, if such person takes an oath in the prescribed form and otherwise establishes his identity to the satisfaction of the deputy returning officer he is entitled to receive a ballot paper.

(2) The deputy returning officer shall enter or cause to be entered on the poll book opposite the name of the elector who votes under this section a note of his having voted on a second ballot or of an entry having been made in the polling list in error that he has polled his vote, as the case may be. Entry in poll book

56.—(1) An elector who is required to take the oath is entitled to select any one of the prescribed forms of oaths, whatever may be the description in the polling list of the qualification or the character in which he is entered upon it. Form of oath

(2) No inquiry shall be made of an elector who is required to take the oath except with respect to the matters required to be stated in the oath or to ascertain if he is the person intended to be designated on the polling list. Inquiry

57. Upon delivery to him of a ballot paper by a deputy returning officer, the person receiving it shall, Procedure on receipt of ballot

- (a) forthwith proceed into the compartment provided for the purpose and shall then and there mark his ballot paper with a cross or other mark with a pen or pencil within the circle or circular space to the right of the name of a candidate for whom he intends to vote;
- (b) then fold the ballot paper so as to conceal the names of the candidates and the marks upon the face of it and so as to expose the initials of the deputy returning officer;
- (c) then leave the compartment without delay, and without showing the face of the ballot paper to anyone, or so displaying it as to make known how he has marked it; and
- (d) then deliver the ballot paper so folded to the deputy returning officer.

58.—(1) Upon delivery of a ballot paper to him by an elector, the deputy returning officer, without unfolding the ballot paper, or in any way disclosing the names of the candidates or the marks made by the elector, shall verify his own initials, and at once deposit the ballot paper in the ballot box in the presence of all persons entitled to be present and then present in the polling place, and the elector shall forthwith leave the polling place. Duty of D.R.O. on receipt of ballot

(2) A person whose ballot has been placed in the ballot box by the deputy returning officer shall be deemed to have voted. Person deemed to have voted

(3) The deputy returning officer or the poll clerk shall place his initials in the appropriate column of the poll book opposite the name of every person who has voted for candidates for the office named in that column. Entry in poll book

Person not
to take
ballot
from polling
place

59.—(1) A person who has received a ballot from a deputy returning officer shall not take it out of the polling place, and a person who receives a ballot and leaves the polling place without returning it to the deputy returning officer, or returns his ballot declining to vote, forfeits his right to vote, and the deputy returning officer, shall make an entry in the poll book in the column for remarks to the effect that the person received a ballot but took it out of the polling place, or returned it declining to vote, as the case may be, and in the latter case the deputy returning officer shall immediately write the word "*Declined*" upon the ballot and preserve it to be returned to the clerk.

Ballot
accidentally
spoiled

(2) An elector who has inadvertently dealt with his ballot in such a manner that it cannot be conveniently used, upon returning it to the deputy returning officer, is entitled to obtain another ballot, and the deputy returning officer shall immediately write the word "*Cancelled*" upon the first-mentioned ballot and preserve it to be returned to the clerk.

No other
person in
compartment
while elector
marking
ballot

60. Subject to section 61, while an elector is in a compartment for the purpose of marking his ballot paper, no other person shall be allowed to enter the compartment or to be in a position from which he can see how the elector marks his ballot paper.

Voter
incapacitated
by blindness,
etc.

61.—(1) On the application of any elector who is unable to read or is incapacitated by blindness or other physical cause from voting in accordance with the other provisions of this Act, the deputy returning officer shall require the elector making the application to take an oath of his incapacity to vote without assistance, and shall thereafter assist the elector by marking his ballot in the manner directed by the elector in the presence of the poll clerk and of no other person and place the ballot in the ballot box.

Blind voter's
ballot
marked by
friend

(2) The deputy returning officer shall either deal with a blind elector in the manner provided in subsection 1 or, at the request of any blind elector who has taken the prescribed oath and is accompanied by a friend, shall permit the friend to accompany the blind elector into the voting compartment and mark the elector's ballot for him.

Oath of
friend

(3) Any friend who is permitted to mark the ballot of a blind elector under subsection 2 shall first be required to take the prescribed oath that he will keep secret the manner in which the blind elector voted.

May act
as friend
only
once

(4) No person shall be allowed to act as the friend of more than one blind elector at any polling place other than a polling place established under section 45.

(5) The deputy returning officer shall enter in the column Entry in poll book for remarks in the poll book opposite the elector's name the reason why the ballot was marked by him or by a friend of the elector.

62. Where the deputy returning officer does not under-stand the language of the elector, an interpreter provided by the elector may be sworn in the prescribed form to translate the necessary oaths as well as any lawful questions necessarily put to the elector and his answers, but in the event of inability to secure an interpreter, the elector shall be refused a ballot. Voter who cannot understand English

63. The deputy returning officer, the poll clerk, the election assistant, the constable or constables, any candidate or, in his absence, his scrutineer, any scrutineer appointed by the council in relation to any by-law or question, and no others shall be permitted to remain in the polling place during the time the poll is open or to be in the polling place at the counting of the votes. Who may remain in polling place

ADVANCE POLLS

64.—(1) The clerk shall hold an advance poll in accordance with this section on the Monday and Saturday, seven days and two days respectively, before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivisions for which their names appear on the polling lists or who are entitled to vote under a certificate issued by the clerk under section 31 or 54. Advance poll

(2) The advance poll shall be open from 11 o'clock in the forenoon until 8 o'clock in the afternoon on each of the two days it is held and polling shall be held so far as possible in the same manner as polling at a regular election. When poll to be open

(3) The clerk shall provide as many polling places for an advance poll as he considers necessary and shall appoint a deputy returning officer and poll clerk for each such polling place. Polling places

(4) Every person offering himself as a voter at a polling place for an advance poll shall be required by the deputy returning officer before being allowed to vote to make the prescribed declaration, which shall be kept by the deputy returning officer with the other records of the poll. Declaration of elector

(5) Forthwith after the close of the advance poll on each day it is held, the deputy returning officer shall make up and deliver to the clerk a list of the names of all persons who have voted showing in each case the number of the Last of persons voting

polling subdivision in which the elector is entered on the polling list and the clerk shall, at the request of any candidate, furnish him with a copy of such list.

Duties of
clerk on
receiving
list

(6) Upon receiving the list mentioned in subsection 5, the clerk shall,

- (a) make an entry in the polling list to be supplied to each deputy returning officer on polling day opposite the name of each elector whose name appears on such list and whose vote has been received at an advance poll, showing that such elector has voted; or
- (b) make a certificate in the prescribed form for each polling subdivision, showing the name and address of each elector listed on the polling list for such polling subdivision who has voted at an advance poll, and shall furnish such certificate before the opening of the poll on polling day to the deputy returning officer of the polling subdivision, and the deputy returning officer shall before opening the poll make an entry on the polling list supplied to him, opposite the name of each elector whose name appears on the certificate, showing that such elector has voted.

Sealing
of box

(7) Forthwith after the close of the advance poll on each day it is held the deputy returning officer and any candidate or scrutineer present who desires to do so shall affix his seal to the ballot box in such a manner that it cannot be opened or any ballots be deposited in it without breaking the seals and the deputy returning officer shall forthwith deliver it personally to the clerk for safe keeping.

Opening of
ballot boxes
for advance
poll

(8) On the regular polling day for an election, after the close of polling, the deputy returning officer shall, in the presence of such candidates for office at the election and their scrutineers as are present at the hour fixed for the closing of the poll, open the ballot boxes for the advance poll, count the votes and perform all other duties required of deputy returning officers by this Act.

PROXY VOTING

Who may
vote by
proxy

65.—(1) Any person whose name is entered on the polling list for a polling subdivision and who is,

- (a) a person other than one described in section 45 and who is certified by a legally qualified medical practitioner, by certificate filed with the clerk, to be physically incapable of attending a polling place;

- (b) a person absent from his regular residence by reason of attending an educational institution and who is entered on the list for the polling subdivision in which he normally resides and who expects by reason of such absence to be unable to vote at the advance poll or on polling day; or
- (c) a person who expects to be absent from his polling subdivision during the election period including the advance poll and polling day by reason of his being engaged for hire or reward in the business of transportation by railway, air, water or motor vehicle,

may vote by proxy in that polling subdivision.

(2) Any person who is entitled to vote by proxy pursuant to subsection 1 may appoint in writing in the prescribed form as his voting proxy a person who is entitled to vote in the municipality in which the person voting by proxy is qualified to vote. Who may be proxy

(3) A voting proxy may not act as a voting proxy for more than one person voting by proxy except where the person voting by proxy is the child, grandchild, brother, sister, husband or wife of the voting proxy, in which case a voting proxy may act for more than one such person voting by proxy. May be proxy once only

(4) An appointment of a person as a voting proxy is not valid unless it is made after nomination day and does not remain in force after polling day. Term of appointment

(5) A person who has been appointed a voting proxy may apply to the clerk not later than 5 o'clock in the afternoon of the Tuesday preceding polling day to receive a certificate to vote by proxy for the polling subdivision in which the person appointing the voting proxy is entitled to vote. Application for certificate to vote by proxy

(6) The clerk shall take evidence on oath as to the right of the person appointing the voting proxy to vote in the polling subdivision upon the list for which his name is entered and as to the qualifications of the voting proxy, and, if he finds that the person appointing the voting proxy is duly qualified and that the voting proxy is qualified to act for the person appointing him, he shall give a certificate in prescribed form across the face of the appointment of the voting proxy to that effect. When certificate to be given

(7) Not more than one voting proxy may be appointed on behalf of any person at any election. Not more than one proxy

Oath on
voting

(8) A ballot shall not be delivered to a person who claims to vote as a voting proxy unless he produces his appointment as a voting proxy to the deputy returning officer with the certificate of the clerk thereon as provided in subsection 6 and takes the prescribed oath.

Record of
voting proxy

(9) Where a voting proxy has voted, the deputy returning officer shall record in the poll book the fact that the person appointing the voting proxy voted by proxy and the name of the voting proxy, and shall file the appointment of the voting proxy and the certificate of his appointment given by the clerk with the election papers and return them to the clerk in the envelope provided for that purpose.

Proxy may
vote in
own right

(10) A person who has been appointed as a voting proxy is entitled to vote in his own right in the municipality notwithstanding that he has voted as a voting proxy.

KEEPING OF PEACE: INTERRUPTED ELECTIONS

Assistance of
constables

66. A clerk or a deputy returning officer may require the assistance of constables and other persons to aid him in maintaining peace and order at the election and may swear in as many constables as he considers necessary.

When
election not
commenced or
interrupted

67. If by reason of riot or other emergency the voting at a polling place is not commenced on the proper day or is interrupted after being commenced and before the lawful closing thereof, the clerk or deputy returning officer, as the case may be, shall hold or resume the polling on the following day at 11 o'clock in the forenoon and continue the same from day to day, until the poll has been opened without interruption and with free access to voters for nine hours in all.

COUNTING THE VOTES

Duties of
D.R.O. after
close of poll

68. Immediately after the close of the poll, the deputy returning officer at each polling place shall,

- (a) place all the cancelled, declined and unused ballots in separate sealed envelopes;
- (b) count the number of electors whose names appear by the polling book to have voted and make an entry in the book on the line immediately below the name of the elector who voted last as follows:—"The number of electors who voted at this election in this polling place is (stating the number)" and sign his name thereto.

69.—(1) After compliance with section 68, the deputy returning officer shall, in the presence and in full view of the persons entitled to be present, open the ballot box for the polling place and proceed to count the numbers of votes for each candidate, giving full opportunity to those present to examine each ballot. Counting of votes

(2) In counting the votes, the deputy returning officer shall reject all ballots, Rejection of ballots

- (a) that have not been supplied by him;
- (b) that contain the names of candidates for one office only and in which votes have been cast for more candidates than are to be elected to the office;
- (c) that are separate ballots submitting a by-law for the assent or a question for the opinion of the electors, and votes are cast for both the affirmative and the negative on the by-law or question; or
- (d) upon which there is any writing or mark by which the elector can be identified, or that has been so torn, defaced or otherwise dealt with by the elector that he can thereby be identified,

but no word, letter, or mark written or made or omitted to be written or made by the deputy returning officer on a ballot voids it or warrants its rejection.

(3) Where a ballot contains the names of candidates for more than one office and votes are cast on such ballot for more candidates for any office than are to be elected to such office, such votes are void and shall be rejected, but unless such ballot is rejected under subsection 2, the votes for any other office in respect of which the elector has not voted for more candidates than are to be elected shall be counted. Idem

(4) Where in a composite ballot,

Composite
ballots

- (a) votes are cast for more candidates for any office than are to be elected to such office; or
- (b) votes are cast for both the affirmative and negative on any by-law or question,

the votes for such candidates or with regard to the by-law or question, as the case may be, are void and shall be rejected but, unless such ballot is rejected under subsection 2, the votes for any other offices, by-law or question in respect of which votes are correctly indicated shall be counted.

Where part
of votes
rejected

(5) Where part of the votes cast in any ballot are rejected under subsection 3 or 4, the deputy returning officer shall note such fact on the back of the ballot and initial the note, and where all the votes on the ballot are rejected under either or both of such subsections, the ballot shall be treated as a rejected ballot.

Objection
by candidate,
etc.

70.—(1) A candidate or a scrutineer at a polling place may object to a ballot or to the counting of votes in any ballot in whole or in part on the ground that the ballot or such votes should be rejected under section 69 and the deputy returning officer at the polling place shall decide the objection, subject to review on a recount or in a proceeding questioning the validity of the election.

Objections to
be listed

(2) The deputy returning officer shall list all objections under subsection 1 to the counting of ballots or of votes therein and number such objections and shall place the number of an objection on the back of the ballot objected to and initial the number.

How votes
counted

71. The deputy returning officer shall count all votes cast at his polling place that are not rejected and shall keep an account of the number of votes so cast and allowed for each candidate and with respect to each by-law or question.

Ballots to
be placed
in separate
packets

72. Following count of the votes at his polling place, a deputy returning officer shall place in separate sealed packets,

- (a) all used ballots that have not been objected to and have been counted in whole or in part;
- (b) all used ballots that have been objected to but which have been counted in whole or in part;
- (c) all rejected ballots;
- (d) all ballots used but unmarked.

D.R.O. to
endorse
packets

73. The deputy returning officer shall endorse every packet of ballots made up by him under clause *a* of section 68 or section 72 so as to indicate its contents and any candidate or scrutineer present may write his name on the packet.

Oath of
poll clerk

74. The poll clerk, immediately after the completion of the counting of the votes, shall take and subscribe the prescribed oath.

STATEMENT AND MATERIALS RETURNED TO CLERK

75.—(1) The deputy returning officer shall make out a ^{Statement of D.R.O.} statement in duplicate of the number of,

- (a) ballots received from the clerk;
- (b) votes given for each candidate;
- (c) votes given for and against a by-law or question;
- (d) used ballots that have not been objected to and have been counted;
- (e) ballots that have been objected to in whole or in part but which have been counted;
- (f) rejected ballots;
- (g) cancelled ballots;
- (h) ballots used but unmarked;
- (i) declined ballots;
- (j) unused ballots;
- (k) voters whose ballots have been marked by the deputy returning officer under sections 45 and 61.

(2) One statement shall be attached to the poll book and the duplicate statement enclosed in a special packet shall be ^{Statement attached to poll book} delivered to the clerk as provided herein.

(3) The statement shall be signed by the deputy returning officer and the poll clerk and such of the candidates or their ^{Statement signed by D.R.O., etc.} scrutineers as are present and desire to sign it.

(4) The deputy returning officer shall deliver to such of the candidates or their scrutineers as are present, if requested to do so, a certificate of the number of ballots counted for ^{Certificate re ballots counted and rejected} each candidate, and of the rejected ballots.

76.—(1) The deputy returning officer shall place in the ^{What to be placed in ballot box} ballot box the poll book, the polling list, the packets containing the ballots and all other documents or packets that served at the election, except,

- (a) the duplicate statement;
- (b) the oath of the poll clerk; and
- (c) the oath of the person, if any, chosen to deliver the ballot box to the clerk.

Box to be
locked, etc.

(2) The deputy returning officer shall then lock and seal the ballot box and forthwith deliver it and the documents enumerated in subsection 1 personally to the clerk.

Oath of
D.R.O.

(3) Forthwith thereafter, the deputy returning officer shall take and subscribe the prescribed oath and shall personally deliver it or transmit it by registered mail to the clerk.

Delivery of
ballot box,
etc., to
clerk

(4) If the deputy returning officer is unable personally to deliver the ballot box and documents enumerated in subsection 1 owing to illness or other cause, he shall deliver them to the poll clerk for delivery to the clerk, or, where the poll clerk is unable to act, to some person chosen by the deputy returning officer for the purpose of delivering them to the clerk, who shall take the prescribed oath to do so and the deputy returning officer shall thereon, or on a ticket attached thereto, write the name of the person to whom the box was delivered and shall take a receipt therefor, and the poll clerk or person so chosen shall forthwith personally deliver them to the clerk and shall take before him the prescribed oath.

Right of
candidate,
etc., to be
present

(5) The candidates, or their scrutineers, are entitled to be present when the ballot box and documents for a polling place are delivered to the clerk pursuant to this section.

D.R.O. not to
take box to
home, etc.

(6) A deputy returning officer, after the close of the poll, shall not under any circumstances take, or allow to be taken, the ballot box to his home, house, office or place of business, or to any house or place except the office of the clerk.

Clerk to add
up votes

77.—(1) The clerk, after he has received the ballot boxes and other documents referred to in section 76, shall, without opening any of the ballot boxes, cast up from the duplicate statements showing the number of votes for each candidate and for the affirmative or negative on any by-law or question at each polling place the total number of votes for each candidate and the total number of votes for the affirmative or negative on any by-law or question.

Declaration
of result

(2) After casting up the total number of votes cast at an election, the clerk shall, at the town hall or, if there is no town hall, at the clerk's office at noon on the Thursday following the day on which the polling is held, publicly declare to be elected the candidate or candidates having the highest number of votes, and declare the result of the vote with respect to any by-law or question and he shall also post up in some conspicuous place a statement under his hand showing the number of votes for each candidate and for the affirmative or negative on the by-law or question.

(3) If for any cause, the clerk cannot, at the day and hour appointed by him for adding up the votes, ascertain the number of votes given for each candidate, or for the affirmative or negative on any by-law or question he may adjourn to a future day and hour the adding up of the votes and so on from time to time, such adjournment or adjournments not in the aggregate to exceed fourteen days.

Delay in
adding up
votes

78.—(1) Except as provided in this section, the clerk, upon the receipt of a ballot box, and the documents referred to in section 76, shall take every precaution for their safekeeping and for preventing any other person from having access to them, and shall immediately on receipt of the ballot box seal it with his own seal in such a way that it cannot be opened without his seal being broken, and that any other seals affixed to it are not effaced or covered.

Safekeeping
of box and
documents

(2) Where the documents specified in subsection 1 of section 76 are in error placed in the ballot box or where the duplicate statement cannot be interpreted by the clerk, he may open such ballot box or boxes in the presence of the deputy returning officer concerned and, after having recovered or ascertained the meaning of the statement, as the case may be, the box shall be resealed by the deputy returning officer in the presence of the clerk and by the clerk.

Opening of
box when
documents
placed in
box in
error

(3) If a deputy returning officer has not delivered the statement of the ballots counted by him to the clerk as required by section 76, the clerk shall after notification to the candidates or their scrutineers, who may be present, open the appropriate ballot box for the purpose of counting the votes and shall count the votes.

Where D.R.O.
fails to
deliver
statement

79. If a ballot box for any polling place has been destroyed or lost, or, for any other reason, is not forthcoming by the time fixed for adding up the votes, the clerk shall ascertain the cause and, if the statement of the votes cast and certificates, or any of them or copies of them, cannot be procured, the clerk shall ascertain by such evidence as he is able to obtain, the total number of votes given for each candidate at the polling place and for the affirmative or negative on any by-law or question, and may summon any deputy returning officer, poll clerk, election assistant or other person to appear before him at a time and place to be named by him, and the clerk shall notify the candidates of the intended proceedings and may examine on oath such deputy returning officer, poll clerk, election assistant or other person respecting the matter in question.

Where ballot
box lost,
etc.

80.—(1) If upon the casting up of the votes, two or more candidates have an equal number of votes where both or all of

Equality
of votes

such candidates cannot be elected, or the votes for the affirmative and negative on a by-law or question are equal, the clerk shall publicly declare the result and post up in a conspicuous place a statement showing the number of votes for each candidate and for and against the by-law or question and shall forthwith notify a judge of the result and the judge shall thereupon appoint a time and place to recount the votes cast up for such candidates or concerning such by-law or question.

Application
of ss. 81-88

(2) In such proceedings, sections 81 to 88 apply *mutatis mutandis*.

RECOUNT

Interpre-
tation

81.—(1) In this section and in sections 82 to 84, “judge” means the judge of the county or district court in which the municipality or part thereof or the administrative or head office of the local board is situate.

Where
recount
desirable

(2) If, within fourteen days after the declaration by a clerk of the result of an election, upon an application of a candidate or voter it is made to appear by affidavit to a judge that the votes have been improperly counted or any ballot paper has been improperly rejected or that an incorrect statement of the number of ballots cast for any candidate or for the affirmative or negative on any by-law or question has been made or that the votes have been improperly added up, and if within that time the applicant has given security for the costs in connection with the recount or final addition of any candidate declared elected in the amount of \$100 in legal tender, or if at any time within four weeks after such declaration the council of the municipality whose clerk was the returning officer has by resolution declared that a recount or final addition is desirable in the public interest, the judge shall appoint a time and place to recount or make a final addition of the votes cast at the election, and shall notify the clerk thereof.

Notice of
recount

(3) At least two days notice in writing of the time and place appointed shall be given by the clerk to the candidates and to the applicant, and the clerk or a person appointed by the clerk for the purpose shall attend the recount or final addition with the ballot boxes and all documents relating to the election.

Who may be
present

(4) The judge, the clerk, a person appointed by the clerk, each candidate and his scrutineer appointed to attend the recount or final addition, and such other persons as the council may appoint where the recount or final addition relates to a by-law or question, but no other person, except with the approval of the judge, is entitled to be present at the recount.

(5) Where a recount relates to the election of a candidate, the recount shall be of the ballots cast respectively for the candidate declared elected when one only is to be elected or in other cases for the candidate who received the lowest number of votes of those declared elected by the clerk and for the defeated candidate who received the highest number of votes for the same office unless any other candidate in writing requires the ballots cast for him to be recounted or the votes cast for him to be finally added.

What ballots
involved in
recount

(6) At the time and place appointed, and in the presence of such of the persons entitled to be present as may attend, the judge conducting a recount or final addition of the votes cast at an election shall make such final addition from the statements returned to the clerk by the deputy returning officers, or recount all the ballots received by the clerk from the several deputy returning officers and the number of votes counted at the election and shall for the purposes of the recount open the sealed packets containing the used ballots that were not objected to and were counted, the ballots that were objected to but which were counted, the rejected ballots, the cancelled ballots, the ballots that were used but were unmarked, the declined ballots and the unused ballots.

Procedure
by judge

(7) Subject to subsection 8, the judge shall proceed according to the provisions of this Act for the counting of the ballots and of the vote at the close of the poll by a deputy returning officer, and shall verify and correct the statement of the poll.

Rules to
govern
proceedings

(8) If for any reason it appears desirable to do so the judge, upon the application of any party to a recount, may hear such evidence as he considers necessary for the purpose of making a full and proper recount of the ballots, and, without restricting the generality of the foregoing, he may, if the recount results in any of the candidates for any office being declared to have received the same number of votes as any other candidate or candidates who were parties to the recount, hear such evidence as he considers necessary to determine who was elected to that office.

Judge may
hear any
evidence
necessary for
proper
recount

(9) Upon the completion of a recount all the ballots shall be sealed in their separate packets and upon completion of final addition, the statements shall be sealed in their respective packets and the judge shall certify the result of the recount or final addition to the clerk.

Judge to
certify
recount
to clerk

(10) The judge may require the clerk of the county or district court to be present at the time and place appointed.

Clerk of
court

82.—(1) The judge shall delay sending his certificate under section 81 to the clerk for two days after the completion of

Time for
sending
certificate
to clerk

the recount or final addition in order to allow for an appeal as provided in section 86.

If no appeal
clerk to
declare
result

(2) If no notice of appeal is given to the judge within two days after the completion of a recount or his final addition, the judge shall certify forthwith the result to the clerk who shall then declare the candidate having the greatest number of votes to be elected or certify to the council the result of the vote with respect to a by-law or question.

Equality of
votes after
recount
where one
person to be
elected

83. In the case of an equality of votes for candidates for any office for which one person only is to be elected, as a result of a recount or final addition, the successful candidate shall be determined by lot conducted by the clerk.

Costs of
recount

84.—(1) The costs of a recount under section 81 are in the discretion of the judge making the recount who may order by whom, to whom and in what manner the costs shall be paid.

Awarding
of costs

(2) The judge may in his discretion award costs of a recount or final addition to or against any candidate who is a party to it and may fix the amount thereof or order that they be taxed by the clerk of the district or county court on a scale following as nearly as may be the tariff of costs of the county court.

Where no
provision as
to costs

(3) Where the judge makes no provision as to the costs of a recount or final addition, the disbursements made or authorized to be made by the clerk shall be paid by the municipality.

Payment of
deposit

(4) Where costs are directed to be paid by the applicant for a recount or final addition, the money deposited as security for costs under section 81 shall be paid out to the party entitled to such costs, so far as necessary.

Enforcement
of payment
of costs

(5) Payment of the costs awarded under this section may be enforced by execution to be issued from any county or district court, upon filing therein the order of the judge and a certificate showing the amount at which the costs were taxed and an affidavit of the non-payment of them.

Expenses of
judge

(6) The judge is entitled to receive from the municipality the expenses necessarily incurred in attending at the place designated by him for a recount or final addition.

Where no
appeal
documents,
etc., to be
returned
to clerk

85.—(1) Upon expiry of the time for appeal from a decision of a judge on a recount or final addition if no appeal has been

taken, the judge shall cause all the ballots to be sealed in their original packets and upon completion of final addition, shall cause the statements to be sealed in their respective packets and returned to the custody of the clerk.

(2) If an appeal is taken from the decision of a judge on a recount or final addition, the judge shall cause such of the ballots and such of the original statements as are not required for the purpose of the appeal to be sealed in their respective packets and returned to the custody of the clerk. Documents not required on appeal

APPEAL FROM DECISION ON RECOUNT OR FINAL ADDITION

86.—(1) Any party may appeal from the decision of the judge who conducted a recount or final addition other than a decision on a recount or final addition of votes in relation to any by-law or question, by giving notice in writing within two days after the completion of the recount or final addition to the other parties and to the judge of his intention to appeal, and he may by the notice limit the appeal to specified ballots. Appeal from decision of judge

(2) The notice may be served upon the other parties personally, or as a judge of the Supreme Court may direct. Service of notice

(3) Where the appeal is limited, the judge who conducted the recount or final addition shall cause to be sealed the ballots or statements that are the subject of appeal in a separate packet and shall forward them, together with the notice and a certificate showing his findings as to the ballots in dispute, by registered mail to the Registrar of the Supreme Court, but, if the appeal is not limited the judge shall forward all the ballots and other papers to the Registrar, and in either case he shall await the result of the appeal before sending his certificate under section 81 to the clerk. Ballots, etc., to be forwarded to Registrar of Supreme Court

(4) On receipt of the ballots and notice, the Registrar shall forthwith obtain an appointment from a judge of the Supreme Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed. Appointment for hearing

(5) At the time appointed, the judge of the Supreme Court shall recount the ballots or such of them as are the subject of appeal, or review the final addition, as the case may be, and shall forthwith certify his decision to the judge who conducted the recount or final addition, whose duty it is to conform to the decision and to certify the result without delay to the clerk. Procedure on appeal

(6) The judge of the Supreme Court may direct by and to whom, the costs of the appeal shall be paid. Costs of appeal

Idem

(7) Where the judge of the Supreme Court makes no provision as to costs, the disbursements made or authorized to be made by the clerk, shall be paid by the municipality.

DISPOSITION OF ELECTION RECORDS

Disposition
of ballots

87.—(1) The clerk shall retain in his possession for ninety days from the date of the poll for an election all the ballots in the election and, unless otherwise directed by an order of a judge or officer having jurisdiction to inquire as to the validity of the election, shall then destroy them in the presence of two witnesses, who shall make a statutory declaration that they witnessed the destruction of them and such declaration shall be filed in the office of the clerk.

Disposition
of other
documents

(2) Subject to subsection 1, the clerk shall retain in his possession all oaths, nominations, qualification documents, statements of the votes cast, and other documents relating to an election until the successors to the persons elected at such election have taken office, and may then destroy them.

Inspection of
ballots, etc.

88.—(1) No person shall be allowed to inspect any ballot or other document relating to an election in the custody of the clerk except under the order of a judge.

Order of
judge

(2) The order may be made on the judge being satisfied by affidavit or other evidence that the inspection is required for the purpose of maintaining a prosecution for an offence, or corrupt practice, or of taking proceedings for contesting the election or return.

Production
of documents
by clerk

89. Where an order is made for the production by the clerk of any document in his possession relating to an election, the production of it by him in such manner as may be directed by the order is evidence that the document relates to the election, and any endorsement appearing on any packet of ballots so produced is evidence that the contents are what they are stated to be by the endorsement.

NEW ELECTIONS

New
election

90.—(1) Where a new election is required under the authority of this or any other Act to fill a vacancy in any office by an election other than a regular election, the clerk of the municipality who is the returning officer with whom nominations may be filed shall set the date of the nomination day which shall be within forty-five days of the day on which the vacancy for which he is required to hold the election occurs.

Procedure

(2) The procedure including the period for filing nominations at a new election shall be the procedure and period applicable

at a regular election of the municipality and polling day shall be not less than eighteen and not more than twenty-one days after nomination day.

(3) The polling required to fill a vacancy in an office by this ^{Polling} section shall so far as possible be held in the same manner and by the same officers and take place at the same places in so far as practicable at which the polling took place at the last regular election.

(4) Unless a new preliminary list of electors has been ^{List of electors} furnished by the assessment commissioner, under subsection 5, the preliminary list to be used for preparation of the polling list for a new election shall be the polling list used at the last regular election, which shall be subject to revision as if it were a preliminary list of electors under section 24 and to additions pursuant to a certificate of the clerk under section 31 and the clerk may fix the times and places for the making of complaints as to revision.

(5) Where in the year following an election year, the annual ^{Idem} enumeration under *The Assessment Act* has, prior to the holding ^{R.S.O. 1970, c. 32} of the new election, been completed for the municipality or municipalities in which the new election is to be held, the assessment commissioner shall, within fourteen days of a request by the clerk or clerks of such municipality or municipalities, furnish a new preliminary list of electors based on such annual enumeration and in accordance with the requirements of this Act pertaining to the preparation of such lists and such preliminary list shall for all purposes, including revision by the clerk, be the preliminary list of electors for the new election.

(6) Where a vacancy occurs in any office and an election is to ^{Eligibility of member to be candidate for other office} be held to fill such vacancy, a person holding any other office is not eligible to be a candidate for the vacant office unless he has, before the first day of the period during which nominations for the new election may be filed, filed with the clerk a certified copy of his resignation from the office that he then holds with evidence satisfactory to the clerk that such resignation has been filed as required by legislation governing the office that he then holds.

(7) Notwithstanding anything in this or any other general or ^{Vacancy after March 31st of election year} special Act, a new election shall not be held to fill a vacancy where the vacancy occurs after the 31st day of March of an election year.

91. Notwithstanding that a new election becomes necessary, ^{Council may meet notwithstanding vacancy} meetings of the council may be held if a quorum of the council is present.

EFFECT OF IRREGULARITIES

Irregularities
not to offset
result

92. No election shall be declared invalid,

- (a) by reason of any irregularity on the part of the clerk or in any of the proceedings preliminary to the poll;
- (b) by reason of a failure to hold a poll at any place appointed for holding a poll;
- (c) by reason of non-compliance with the provisions of this Act as to the taking of the poll, as to the counting of the votes or as to limitations of time; or
- (d) by reason of any mistake in the use of the prescribed forms,

if it appears to the court having cognizance of the matter that the election was conducted in accordance with the principles of this Act and that the irregularity, failure, non-compliance or mistake did not affect the result of the election.

SECRECY OF PROCEEDINGS

Secrecy of
proceedings

93.—(1) Every person in attendance at a polling place or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting.

Interference
with
voter

(2) No person shall interfere or attempt to interfere with an elector when marking his ballot paper, or obtain or attempt to obtain at the polling place information as to how an elector is about to vote or has voted.

Communica-
tion as to
voting

(3) No person shall communicate any information obtained at a polling place as to how an elector at such polling place is about to vote or has voted.

Inducing
person to
show ballot

(4) No person shall, directly or indirectly, induce or attempt to induce an elector to show his ballot paper after he has marked it, so as to make known to any person how he has voted.

Voter not
to show
ballot

(5) Subject to section 61, an elector shall not show his ballot paper, when marked, to any person so as to make known how he voted.

No one com-
pellable to
disclose
his vote

(6) No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state how or for whom he has voted.

OFFENCES, PENALTIES AND ENFORCEMENT

94. Every person who, at an election,

Voting when
not qualified,
etc.

- (a) not being qualified to vote, votes; or
- (b) being qualified to vote, votes more times than he is authorized to vote by this Act; or
- (c) votes in a polling subdivision other than one in which he is entitled to vote by this Act,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both.

95. Every person who,

Improper
voting by
proxy

- (a) having appointed a voting proxy to vote at an election, attempts to vote at the election otherwise than by means of such voting proxy while the voting proxy is in force; or
- (b) having been appointed a voting proxy at an election, votes or attempts to vote at the election under the authority of the proxy when he knows or has reasonable grounds for supposing that his appointment has been cancelled or that the elector who made the appointment is dead or is no longer entitled to vote,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both.

96. Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise wilfully makes up a false statement of the poll is guilty of a corrupt practice and is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both.

Wilful
miscount
of ballots

97. Every clerk, deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

Neglect of
duties

98. Every person who,

Offences
relating to
ballot
papers

- (a) without authority, supplies a ballot to any person;
- (b) places in a ballot box a paper other than the ballot that he is authorized by law to place therein;

- (c) delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot given to him by the deputy returning officer;
- (d) takes a ballot out of the polling place;
- (e) without authority, takes, opens or otherwise interferes with a ballot box or books or packet of ballots or a ballot in use or used for the purpose of an election;
- (f) being a deputy returning officer, knowingly puts his initials on the back of any paper that is not a ballot, purports to be or is capable of being used as a ballot at an election; or
- (g) attempts to commit any offence mentioned in this section,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both.

False
information
to authorized
persons

99. Every person who knowingly furnishes false or misleading information to any person who by this Act is authorized to obtain information is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both.

Offences of
inducing un-
qualified
person to vote
or publishes
false state-
ment of with-
drawal of
candidate

100. Every person who,

- (a) induces or procures any person to vote knowing that that person has no right to vote; or
- (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both.

Bribery:

101.—(1) Every person who,

bribing
elector or
procuring
bribery by
money

- (a) directly or indirectly, himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers or promises any money or valuable consideration, or promises to procure or to endeavour to procure any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector, or to or for any person in order to induce any elector to vote or refrain from voting, or corruptly does any such act on account of any

elector having voted or refrained from voting at an election; or

- (b) directly or indirectly, himself or by any other person on his behalf, gives or procures or agrees to give or procure, or offers or promises any office, place or employment, or promises to procure or to endeavour to procure any office, place or employment to or for any elector, or to or for any other person in order to induce any elector to vote or refrain from voting, or corruptly does any such act on account of any elector having voted or refrained from voting at an election; or by gift or offer or promise of employment
- (c) directly or indirectly, himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement, to or for any person, in order to induce such person to procure or endeavour to procure the return of any candidate, or the vote of any elector at an election; or to induce anyone to procure return of candidate or endeavour to procure
- (d) upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any candidate, or the vote of any elector at an election; or receiving bribe to procure return of candidate
- (e) advances or pays, or causes to be paid, money to or to the use of any other person, with the intent that such money or any part of it shall be expended in corrupt practices at an election, or who knowingly pays or causes to be paid money to any person in discharge or repayment of money wholly or in part expended in corrupt practices at an election; or advancing money to be spent in corrupt practices
- (f) directly or indirectly, himself or by any other person on his behalf, on account of and as payment for voting or for having voted, or for illegally agreeing or having agreed to vote for any candidate at an election, or on account of and as payment for having illegally assisted or agreed to assist any candidate at an election, applies to such candidate for the gift or loan of any money or valuable consideration, or for the promise of the gift or loan of any money or valuable consideration, or for any office, place or employment, or the promise of any office, place or employment; or applying for money or employment in consideration of voting
- (g) before or during an election, directly or indirectly, himself or by any other person on his behalf, receives or agrees or contracts for any money, gift, loan or receiving money, office, etc., for having voted

valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at an election; or

receiving
money
corruptly
after
election

- (h) after an election, directly or indirectly, himself or by any other person on his behalf, receives any money or valuable consideration for having voted or refrained from voting, or for having induced any other person to vote or refrain from voting at an election; or

giving or
promising
office to
candidate
to stand or
withdraw

- (i) in order to induce a person to allow himself to be nominated as a candidate, or to refrain from becoming a candidate, or to withdraw if he has become a candidate, gives or procures any office, place or employment, or agrees to give or procure or offers or promises to procure, or endeavours to procure any office, place or employment for such person, or for any other person,

is guilty of bribery, and on summary conviction is liable to a fine of \$200, or to imprisonment for a term of not more than six months, or to both, and is disqualified from voting at any election for four years.

Personal
expenses of
candidate

(2) The actual personal expenses of a candidate, his reasonable expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising and other lawful and reasonable expenses in connection with the election, incurred by the candidate in good faith and without any corrupt intent, shall be deemed to be expenses lawfully incurred, and the payment thereof is not a contravention of this Act.

Posting of
provisions
as to corrupt
practices

(3) The clerk shall furnish every deputy returning officer with at least two copies of this section, and the deputy returning officer shall post them in conspicuous places at the polling place.

General
offence

102. Every person who contravenes any of the provisions of this Act, for which contravention no penalty is otherwise provided, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

Disqualifi-
cation of
persons
guilty of
corrupt
practices

103.—(1) Where a candidate at an election is convicted of bribery or of committing a corrupt practice, he is ineligible to be nominated and stand as a candidate at any election up to and including the next regular election, or to hold any office at the nomination of a municipal council or local board for four years following the date of the poll.

(2) If, when the candidate is convicted of committing a corrupt practice, the presiding judge finds that the act constituting in law a corrupt practice was committed without any corrupt intent, the candidate is not subject to the penalties and disabilities provided by subsection 1. Limitation

CORRUPT PRACTICES AND CONTROVERTED ELECTIONS

104.—(1) The validity of an election or of the election of any person to any office at such an election or whether or not any person is guilty of a corrupt practice respecting an election shall be tried and determined by an action commenced by issuing a writ in the county or district court for the county or district in which the municipality or the administrative or head office of the local board is situated. Validity of election, etc., determined by action

(2) Where the county or district court determines that a person has committed a corrupt practice it may, in addition to any other penalty or order, impose the penalties provided therefor under sections 94 to 100. Penalties for corrupt practice

(3) A candidate at an election or any elector entitled to vote at an election referred to in subsection 1, may commence an action under this section in relation to such election. Who may commence action

(4) No action shall be commenced after the expiration of ninety days following the date of the poll at the election referred to in subsection 1. Time for commencing action

105.—(1) The judge shall, in a summary manner and without formal pleadings, hear and determine the questions raised by or upon an action under section 104 and may give directions as to the conduct thereof and may inquire into the facts on affidavit, by oral testimony, or by trying an issue framed by him, or by one or more of those means. Mode of trial

(2) Subject to subsection 1 and where not otherwise provided in this Act, the practice and procedure of the county or district court apply to an action commenced under section 104. Idem

(3) The action shall be tried by a judge without a jury. Judge without jury

106.—(1) At the time of the commencement of an action, security shall be given on behalf of the plaintiff to be applied towards payment of all costs, charges and expenses, if any, that may become payable by the plaintiff, including the costs and charges of the clerk incurred in the publication of notices in the municipality in respect of the writ of the action or proceedings therein. Security for costs

Idem	(2) The security shall be in the amount of \$400 and shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario.
Abatement of action	107. —(1) An action abates on the death of a sole plaintiff or the survivor of several plaintiffs.
Liability for costs	(2) The abatement of an action does not affect any liability for costs previously incurred.
Substitution of plaintiff	(3) On the abatement of an action any person who might have been a plaintiff may apply to a judge of the court or, during the trial, to the trial judge to be substituted as the plaintiff.
Substitution for unqualified person	108. Where a plaintiff is not qualified to be a plaintiff in an action under this Act, the action shall not on that account be dismissed if within such time as a judge of the court or, during the trial, the trial judge allows for that purpose, another plaintiff is substituted and substitution shall be made on such terms and conditions as the judge considers proper.
Successful candidate guilty of corrupt practice	109. —(1) Where it is determined that a successful candidate is guilty of bribery or of a corrupt practice, the court may declare his election void and his office shall thereupon become vacant.
Unseating and seating of another elected candidate	(2) Where the election of any person is declared void, the court may order that he be removed from office and, if it is determined that any other person would have been elected but for the corrupt practice that he be admitted to take his seat in the council or board or, if it is determined that no other person is elected, a new election shall be held.
Where commission of corrupt practice affected result of election	(3) Where it is determined that any person is guilty of bribery or of a corrupt practice and that the commission of the bribery or corrupt practice affected the result of the election, the court may declare the election void and a new election shall be held.
Where act of election official affected result of election	(4) Where it is determined that any act or omission of an election official affected the result of an election, the court may declare the election void and a new election shall be held.
Compensation of candidates where election void	(5) Where a new election is to be held, the court may make such order as it considers just, against any person who is found guilty of an offence or of bribery or a corrupt practice under this Act, for the compensation of candidates at the void election, not exceeding \$2,000 per candidate.
Judgment to clerk	(6) The clerk of the court shall forward a copy of the judgment and the reasons for judgment to the clerk of the municipality.

110. If the court determines that a member was not duly elected, notwithstanding that an appeal from the decision is pending, he is not entitled to sit or vote on the council or board until the appeal is disposed of and the judgment of the court on appeal is received by the council or local board, but where the court determines that some other person was elected or is entitled to the seat, such person is, notwithstanding that an appeal is pending, entitled to take his seat and to sit and vote until the appeal is disposed of and the judgment of the court on appeal is received by the council or local board.

Where
election set
aside and
appeal
entered

111. A new election shall not be held until after the expiration of the time limited for appeal from the determination of the court that the election is void and, if an appeal is brought, the election shall not be held pending the appeal.

New election
not to be
held pending
appeal

112.—(1) An appeal lies from the judgment of the county or district court to the Divisional Court in accordance with the rules of court.

Appeal to
Divisional
Court

(2) The Divisional Court may give any judgment that ought to have been pronounced or may grant a new trial for the purpose of taking evidence or additional evidence and may remit the case to the trial judge or to another judge and, subject to any directions of the Divisional Court, the case shall thereafter be proceeded with as if there had been no appeal.

Judgment
or new trial

(3) An appeal lies from the decision of the trial judge to whom the case was remitted by the Divisional Court in accordance with the provisions of this section.

Appeal from
decision on
new trial

113. Any person elected may, at any time after the election and before it is complained of, deliver to the clerk of the municipality a disclaimer, signed by him, to the following effect:

Disclaimer
before
complaint

"I, A.B., hereby disclaim all right to the office of
.....for the.....of
.....in the county (or district) of
.....and all defence of any right I may
have to the same. Dated.....day of
....., 19.... A.B."

114. A person whose election is complained of, unless it is complained of on the ground of bribery or of a corrupt practice

Disclaimer
after
complaint

on his part, may, within one week after service on him of the writ, transmit by registered mail, or deliver to the judge of the court, and to the applicant or his solicitor, a disclaimer signed by him to the following effect:

"I, A.B., upon whom a writ, authorized by *The Municipal Elections Act, 1972*, has been served for the purpose of contesting my right to the office

of....., in the county (or district)

of....., hereby disclaim the office, and all defence of any right I may have to the same.

Dated.....day of....., 19....
A.B."

Duplicate
of disclaimer
to clerk

115.—(1) A person disclaiming shall deliver a duplicate of his disclaimer to the clerk of the municipality, and the clerk shall forthwith communicate it to the council.

Operates as
resignation

(2) A disclaimer in accordance with section 113 or 114 operates as a resignation.

Relief from
costs

(3) A disclaimer in accordance with section 114 relieves the person making it from all liability for costs in an action under section 104.

Procedure
substituted
for *quo*
warranto
proceedings

116. Proceedings for the removal from office of a person whose election is alleged to have been undue or illegal, or who is alleged not to have been duly elected, and proceedings to have the right of a person to sit in a council determined shall be had and taken under the provisions of this Act and not by *quo warranto* proceedings or by an action in any court.

Regulations

117. The Minister may make regulations,

(a) prescribing forms for the purposes of this Act; and

(b) prescribing rules for the use of voting machines.

R.S.O. 1970,
cc. 288, 485,
repealed

118. *The Municipal Franchise Extension Act* and *The Voters' Lists Act* are repealed.

Commence-
ment

119. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

120. This Act may be cited as *The Municipal Elections Act, 1972*.

An Act respecting
Municipal Elections

1st Reading

April 20th, 1972

2nd Reading

May 16th, 1972

3rd Reading

June 29th, 1972

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act respecting
Ontario Credit Union League Limited**

THE HON. E. WINKLER
Minister of Consumer and Commercial Relations

AN ACT TO AMEND THE CREDIT UNIONS ACT
 AND TO REPEAL THE CREDIT UNIONS ACT, 1969

ENACTED BY THE LEGISLATURE OF THE PROVINCE OF ONTARIO
 IN THE 23RD YEAR OF THE REIGN OF HER MAJESTY THE QUEEN

EXPLANATORY NOTE

The Bill authorizes the Ontario Credit Union League Limited to purchase and continue the membership and undertakings of the Ontario Co-operative Credit Society notwithstanding the limitations imposed by *The Credit Unions Act*.

BILL 78 *Legislation introduced in the Legislature of Ontario, 1972*

**An Act respecting
Ontario Credit Union League Limited**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpre-
tation

(a) "League" means the Ontario Credit Union League Limited, a company incorporated under *The Credit Unions Act, 1940*; 1940, c. 7

(b) "Society" means the Ontario Co-operative Credit Society, a company incorporated by *The Ontario Co-operative Credit Society Act, 1949*. 1949, c. 133

2. Subject to the approval of the Lieutenant Governor in Council and subject to such terms and conditions as he may impose, the League may purchase, acquire and take over as a going concern the whole of the business and undertaking of the Society, including the goodwill and any or all of its assets, property, privileges, contracts, rights, choses in action, bills of exchange and promissory notes, and the League may thereafter carry on the said business. Acquisition
of Society
by League

3. The League shall assume, as part of the purchase price of the business and undertaking of the Society, all of the liabilities of the Society, and may pay the balance in cash or by the issue of shares to the Society or to the members thereof, whether or not such members are members of the League, and the Society is discharged from any liability in respect of its liabilities. Liabilities

4. In addition to any powers the League has under *The Credit Unions Act* and notwithstanding any provision thereof to the contrary, the League may accept into membership, Membership
R.S.O. 1970,
c. 96

(a) co-operative corporations incorporated, organized or registered under provincial co-operative legislation or governed by such legislation;

- (b) corporations organized for charitable purposes;
- (c) corporations, no part of the income of which is payable to, or otherwise benefits personally, any shareholder or member thereof; or
- (d) corporations however incorporated (whether under the laws of Ontario or not) which in the opinion of the directors are operating as co-operative corporations,

and may make loans to any such members.

Participation
in Canadian
Co-operative
Credit Society
Limited

5. The League may acquire and hold shares of the capital stock of Canadian Co-operative Credit Society Limited, being a company incorporated by chapter 28 of the Statutes of Canada, 1952-53, and accept all the powers, privileges and immunities and subject itself to the limitations, liabilities and provisions mentioned in subsection 1 of section 80 of the *Co-operative Credit Associations Act*, being chapter C-29 of the Revised Statutes of Canada, 1970.

League
continued
as league
under
R.S.O. 1970,
c. 96

6. The League continues as a league under and subject to *The Credit Unions Act*, notwithstanding this Act or anything done by the League under the authority of this Act.

Commence-
ment

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. This Act may be cited as *The Ontario Credit Union League Limited Act, 1972*.

The first part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom.

The second part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom.



An Act respecting
Ontario Credit Union League Limited

1st Reading

April 20th, 1972

2nd Reading

3rd Reading

• THE HON. E. WINKLER
Minister of Consumer and
Commercial Relations

(Government Bill)

BILL 78

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act respecting Ontario Credit Union League Limited

THE HON. E. WINKLER
Minister of Consumer and Commercial Relations

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

BILL 78

1972

An Act respecting Ontario Credit Union League Limited

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "League" means the Ontario Credit Union League Limited, a company incorporated under *The Credit Unions Act, 1940*; ^{1940, c. 7}
- (b) "Society" means the Ontario Co-operative Credit Society, a company incorporated by *The Ontario Co-operative Credit Society Act, 1949*. ^{1949, c. 133}

2. Subject to the approval of the Lieutenant Governor in Council and subject to such terms and conditions as he may impose, the League may purchase, acquire and take over as a going concern the whole of the business and undertaking of the Society, including the goodwill and any or all of its assets, property, privileges, contracts, rights, choses in action, bills of exchange and promissory notes, and the League may thereafter carry on the said business. ^{Acquisition of Society by League}

3. The League shall assume, as part of the purchase price of the business and undertaking of the Society, all of the liabilities of the Society, and may pay the balance in cash or by the issue of shares to the Society or to the members thereof, whether or not such members are members of the League, and the Society is discharged from any liability in respect of its liabilities. ^{Liabilities}

4. In addition to any powers the League has under *The Credit Unions Act* and notwithstanding any provision thereof to the contrary, the League may accept into membership, ^{Membership R.S.O. 1970, c. 96}

- (a) co-operative corporations incorporated, organized or registered under provincial co-operative legislation or governed by such legislation;

- (b) corporations organized for charitable purposes;
- (c) corporations, no part of the income of which is payable to, or otherwise benefits personally, any shareholder or member thereof; or
- (d) corporations however incorporated (whether under the laws of Ontario or not) which in the opinion of the directors are operating as co-operative corporations,

and may make loans to any such members.

Participation
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5. The League may acquire and hold shares of the capital stock of Canadian Co-operative Credit Society Limited, being a company incorporated by chapter 28 of the Statutes of Canada, 1952-53, and accept all the powers, privileges and immunities and subject itself to the limitations, liabilities and provisions mentioned in subsection 1 of section 80 of the *Co-operative Credit Associations Act*, being chapter C-29 of the Revised Statutes of Canada, 1970.

League
continued
as league
under
R.S.O. 1970,
c. 96

6. The League continues as a league under and subject to *The Credit Unions Act*, notwithstanding this Act or anything done by the League under the authority of this Act.

Commence-
ment

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. This Act may be cited as *The Ontario Credit Union League Limited Act, 1972*.

An Act respecting
Ontario Credit Union League Limited

1st Reading

April 20th, 1972

2nd Reading

May 2nd, 1972

3rd Reading

May 11th, 1972

THE HON. E. WINKLER
Minister of Consumer and
Commercial Relations

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Marriage Act

THE HON. E. WINKLER
Minister of Consumer and Commercial Relations

EXPLANATORY NOTES

SECTION 1. The fee for a marriage licence is increased from \$10 to \$15, and the amount retained by the issuer is increased from \$3 to \$5. The limit of \$2,000 or the amount for which a municipality may commute the fees of an issuer is removed.

SECTION 2. The fee for solemnization of a marriage by a judge is increased from \$10 to \$15.

BILL 79

1972

An Act to amend The Marriage Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 1, 2 and 3 of section 38 of *The Marriage Act*, ^{s. 38 (1-3), re-enacted} being chapter 261 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor:

- (1) The fee for a licence is \$15, of which sum \$10 shall ^{Licence fee} be remitted by the issuer to the Treasurer of Ontario.
- (2) The issuer shall retain \$5 from the licence fee for ^{Retention by issuer} his own use.
- (3) Where the issuer is the clerk of a municipality, ^{Commutation of clerk's fees} the council of the municipality may commute the issuer's fees provided for in subsection 2 for a fixed sum payable annually by the municipality to the issuer, in which case the fees that would otherwise be retained by the issuer shall belong to the municipality.

2. Section 42 of the said Act is repealed and the following ^{s. 42, re-enacted} substituted therefor:

42. The fee for the solemnization of a marriage by a ^{Fee on marriage by judge} judge or provincial judge is \$15 which shall be remitted by the judge or provincial judge, as the case may be, to the Treasurer of Ontario.

3. This Act comes into force on the 1st day of July, 1972. ^{Commencement}

4. This Act may be cited as *The Marriage Amendment Act, 1972*. ^{Short title}

An Act to amend
The Marriage Act

1st Reading

April 20th, 1972

2nd Reading

3rd Reading

THE HON. E. WINKLER
Minister of Consumer and
Commercial Relations

(Government Bill)

BILL 79

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Marriage Act

THE HON. E. WINKLER
Minister of Consumer and Commercial Relations

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

BILL 79

1972

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1. Subsections 1, 2 and 3 of section 38 of *The Marriage Act*, ^{s. 38 (1-3), re-enacted} being chapter 261 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor:

- (1) The fee for a licence is \$15, of which sum \$10 shall ^{Licence fee} be remitted by the issuer to the Treasurer of Ontario.
- (2) The issuer shall retain \$5 from the licence fee for ^{Retention by issuer} his own use.
- (3) Where the issuer is the clerk of a municipality, ^{Commutation of clerk's fees} the council of the municipality may commute the issuer's fees provided for in subsection 2 for a fixed sum payable annually by the municipality to the issuer, in which case the fees that would otherwise be retained by the issuer shall belong to the municipality.

2. Section 42 of the said Act is repealed and the following ^{s. 42, re-enacted} substituted therefor:

42. The fee for the solemnization of a marriage by a ^{Fee on marriage by judge} judge or provincial judge is \$15 which shall be remitted by the judge or provincial judge, as the case may be, to the Treasurer of Ontario.

3. This Act comes into force on the 1st day of July, 1972. ^{Commencement}

4. This Act may be cited as *The Marriage Amendment Act, 1972*. ^{Short title}

An Act to amend
The Marriage Act

1st Reading

April 20th, 1972

2nd Reading

May 2nd, 1972

3rd Reading

May 2nd, 1972

THE HON. E. WINKLER
Minister of Consumer and
Commercial Relations

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to amend
The Ministry of Correctional Services Act**

MR. SHULMAN

Vol. 11, Part 1, 1911
No. 1, 1911

THE JOURNAL OF THE
ROYAL ANTHROPOLOGICAL INSTITUTE

EXPLANATORY NOTE

Self-explanatory.

BILL 80

1972

An Act to amend The Ministry of Correctional Services Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Ministry of Correctional Services Act*, being chapter ^{s. 19a,} 110 of the Revised Statutes of Ontario, 1970, is amended by ^{enacted} adding thereto the following section:

19a. The Lieutenant Governor in Council may establish ^{Conjugal} a conjugal visiting program under which persons ^{visiting} detained in a correctional institution or any class ^{program} thereof may, under such terms and conditions as are specified, receive visits from the husbands or wives of such persons for the purpose of continuing or resuming their marital relations.

2. Subsection 1 of section 33 of the said Act is amended by ^{s. 33 (1),} adding thereto the following clause: ^{amended}

(ca) establishing and governing the conjugal visiting program referred to in section 19a.

3. This Act comes into force on the day it receives Royal ^{Commence-} Assent. ^{ment}

4. This Act may be cited as *The Ministry of Correctional* ^{Short title} *Services Amendment Act, 1972.*

An Act to amend The Ministry of
Correctional Services Act

1st Reading

April 20th, 1972

2nd Reading

3rd Reading

MR. SHULMAN

(Private Member's Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Schools Administration Act

MR. GOOD

Session 11

THE EXPLANATORY NOTE

EXPLANATORY NOTE

The purpose of this Bill is to provide for the exempting of a child from school attendance where it is clear that the child is no longer receiving any benefit from his attendance therein.

BILL 81

1972

**An Act to amend
The Schools Administration Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 6 of *The Schools Administration Act*, being chapter 424 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clause:

(i) if he has attained the age of fourteen years on or before the first school day in September in any year and it is the opinion of,

(i) the parent or guardian of the child,

(ii) the child,

(iii) the principal of the school attended by the child, and

(iv) the board under whose jurisdiction the child attends school,

that the child is no longer receiving any benefit from his attendance at school.

2. This Act comes into force on the day it receives Royal Assent.

3. This Act may be cited as *The Schools Administration Amendment Act, 1972*.

An Act to amend
The Schools Administration Act

1st Reading

April 20th, 1972

2nd Reading

3rd Reading

Mr. GOOD

(Private Member's Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to incorporate Ontario Place

THE HON. J. WHITE
Minister of Industry and Tourism

EXPLANATORY NOTE

The Act creates a corporation for the management of Ontario Place.

BILL 82

1972

An Act to incorporate Ontario Place

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Board" means the board of directors of the Corporation;
- (b) "Corporation" means Ontario Place Corporation;
- (c) "Minister" means the Minister of Industry and Tourism.

2. The Minister is responsible for the administration of this Administra-
tion of Act
Act.

3.—(1) There is hereby established, on behalf of Her Majesty Ontario Place
Corporation
established in right of Ontario, a corporation without share capital under the name of Ontario Place Corporation.

(2) The Corporation shall consist of not fewer than seven Composition and not more than thirteen members of whom one shall be the Deputy Minister of Industry and Tourism, *ex officio*, and the remainder, of whom one shall be a director of the Canadian National Exhibition Association, shall be appointed by the Lieutenant Governor in Council.

(3) The members shall be paid such remuneration as is Remunera-
tion of
members fixed by the Lieutenant Governor in Council.

4.—(1) The members of the corporation for the time Board of
directors being form and are its board of directors.

(2) The Lieutenant Governor in Council shall designate Chairman,
vice-
chairman one of the members to be chairman of the Board and may designate one of the members to be vice-chairman of the Board.

Acting
chairman

(3) In case of the absence or illness of the chairman or of there being a vacancy in the office of chairman, the vice-chairman or, if none, such director as the Board designates for such purpose shall act as and have all the powers of the chairman.

Quorum

(4) Three directors constitute a quorum of the Board.

R.S.O. 1970,
c. 89 not to
apply

5. *The Corporations Act* does not apply to the Corporation.

Management
of
Corporation

6. The affairs of the Corporation are under the management and control of the Board, and the chairman shall preside at all meetings of the Board, or, in his absence or if the office of chairman is vacant, the vice-chairman has all the powers and shall perform all the duties of the chairman.

Officers and
employees

7.—(1) The Corporation may, subject to the approval of the Lieutenant Governor in Council, establish job classifications, personnel qualifications and salary ranges for its officers and employees and may appoint, employ and promote its officers and employees in conformity with the classifications, qualifications and salary ranges so approved.

Employees'
superannua-
tion benefits
R.S.O. 1970,
c. 387

(2) *The Public Service Superannuation Act* applies to the permanent and full-time probationary staff of the Corporation as though the Corporation had been designated by the Lieutenant Governor in Council under section 27 of that Act.

Objects

8. The objects of the Corporation are,

- (a) to operate Ontario Place as a provincial exhibit and recreational centre;
- (b) to develop projects and programs designed to provide the people of Ontario with a greater appreciation of the Province and its accomplishments and potential, and to provide talented artists in the Province with the opportunity to exhibit their works and their abilities;
- (c) to develop special programs from time to time considered to be worthwhile to enhance the image of the Province and to co-ordinate activities with the Canadian National Exhibition at times when that exhibition is in operation; and
- (d) to do such other things as the Minister may require from time to time and to advise the Minister on projects and programs of general advantage to the Province.

9.—(1) It is the duty of the Corporation to develop, con-^{General}trol, manage, operate and maintain Ontario Place and for ^{powers and}the purposes of carrying out such duty the Corporation has ^{duties}power,

- (a) to make such by-laws, rules and orders as may be considered expedient for the constitution of the Corporation and the administration and management of its affairs and the conduct of its business;
- (b) to acquire, construct, operate, maintain and generally manage and provide recreational and exhibition facilities and programs, restaurants, theatres, shops and any and all other facilities or conveniences incidental to or necessary for the proper operation and maintenance of Ontario Place;
- (c) to make agreements with persons with respect to the establishment or operation by them of any works or services in connection with Ontario Place;
- (d) to receive and take from any person by grant, gift, devise, bequest or otherwise any property, real or personal or any interest therein.

(2) Subject to the approval of the Lieutenant Governor^{Transfer of assets} in Council, such property of the Crown in right of Ontario as is considered necessary or advisable for the purpose of carrying out its objects may be transferred to and vested in the Corporation for such purpose.

10. The Corporation, with the approval of the Lieutenant Governor^{Regulations} in Council, may make regulations,

- (a) regulating and governing the use by the public of Ontario Place and the works and things under the jurisdiction of the Corporation;
- (b) providing for the protection and preservation from damage of the property of the Corporation;
- (c) prescribing fees for entry into Ontario Place and in connection with any service or the use of any facility provided therein.

11. The property and the income, revenues and profits^{Revenue} of the Corporation shall be applied solely to promote the objects of the Corporation.

Grants and
loans

12. The Minister may, out of the moneys appropriated therefor by the Legislature, make grants or loans to the Corporation at such times, in such amounts and upon such terms and conditions as he considers advisable.

Audit

13. The accounts and financial transactions of the Corporation shall be audited annually by the Provincial Auditor.

Annual
report

14.—(1) The Corporation shall make a report annually to the Minister upon the affairs of the Corporation, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Reports

(2) The Corporation shall make such further reports to the Minister as the Minister may from time to time require.

Commence-
ment

15. This Act comes into force on the day it receives Royal Assent.

Short title

16. This Act may be cited as *The Ontario Place Corporation Act, 1972*.

An Act to incorporate
Ontario Place

1st Reading

April 21st, 1972

2nd Reading

3rd Reading

THE HON. J. WHITE
Minister of Industry and Tourism

(Government Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to incorporate Ontario Place

THE HON. J. WHITE
Minister of Industry and Tourism

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The Act creates a corporation for the management of Ontario Place.

An Act to incorporate Ontario Place

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) "Board" means the board of directors of the Corporation;
- (b) "Corporation" means Ontario Place Corporation;
- (c) "Minister" means the Minister of Industry and Tourism.

2. The Minister is responsible for the administration of this Act.

Administration of Act

3.—(1) There is hereby established, on behalf of Her Majesty in right of Ontario, a corporation without share capital under the name of Ontario Place Corporation.

Ontario Place Corporation established

(2) The Corporation shall consist of not fewer than seven and not more than thirteen members of whom one shall be the Deputy Minister of Industry and Tourism, *ex officio*, and the remainder, of whom one shall be a director of the Canadian National Exhibition Association, shall be appointed by the Lieutenant Governor in Council.

Composition

(3) The members shall be paid such remuneration as is fixed by the Lieutenant Governor in Council.

Remuneration of members

4.—(1) The members of the corporation for the time being form and are its board of directors.

Board of directors

(2) The Lieutenant Governor in Council shall designate one of the members to be chairman of the Board and may designate one of the members to be vice-chairman of the Board.

Chairman, vice-chairman

Acting
chairman

(3) In case of the absence or illness of the chairman or of there being a vacancy in the office of chairman, the vice-chairman or, if none, such director as the Board designates for such purpose shall act as and have all the powers of the chairman.

Quorum

(4) A majority of the directors shall constitute a quorum of the Board.

R.S.O. 1970,
c. 89 not to
apply

5. *The Corporations Act* does not apply to the Corporation.

Management
of
Corporation

6. The affairs of the Corporation are under the management and control of the Board, and the chairman shall preside at all meetings of the Board, or, in his absence or if the office of chairman is vacant, the vice-chairman has all the powers and shall perform all the duties of the chairman.

Officers and
employees

7.—(1) The Corporation may, subject to the approval of the Lieutenant Governor in Council, establish job classifications, personnel qualifications and salary ranges for its officers and employees and may appoint, employ and promote its officers and employees in conformity with the classifications, qualifications and salary ranges so approved.

Employees'
superannua-
tion benefits
R.S.O. 1970,
c. 387

(2) *The Public Service Superannuation Act* applies to the permanent and full-time probationary staff of the Corporation as though the Corporation had been designated by the Lieutenant Governor in Council under section 27 of that Act.

Objects

8. The objects of the Corporation are,

- (a) to operate Ontario Place as a provincial exhibit and recreational centre;
- (b) to develop projects and programs designed to provide the people of Ontario with a greater appreciation of the Province and its accomplishments and potential, and to provide talented artists in the Province with the opportunity to exhibit their works and their abilities;
- (c) to develop special programs from time to time considered to be worthwhile to enhance the image of the Province and to co-ordinate activities with the Canadian National Exhibition at times when that exhibition is in operation; and
- (d) to do such other things as the Minister may require from time to time and to advise the Minister on projects and programs of general advantage to the Province.

9.—(1) It is the duty of the Corporation to develop, con-^{General powers and duties}trol, manage, operate and maintain Ontario Place and for the purposes of carrying out such duty the Corporation has power,

- (a) to make such by-laws, rules and orders as may be considered expedient for the constitution of the Corporation and the administration and management of its affairs and the conduct of its business;
- (b) to acquire, construct, operate, maintain and generally manage and provide recreational and exhibition facilities and programs, restaurants, theatres, shops and any and all other facilities or conveniences incidental to or necessary for the proper operation and maintenance of Ontario Place;
- (c) to make agreements with persons with respect to the establishment or operation by them of any works or services in connection with Ontario Place;
- (d) to receive and take from any person by grant, gift, devise, bequest or otherwise any property, real or personal or any interest therein.

(2) Subject to the approval of the Lieutenant Governor^{Transfer of assets} in Council, such property of the Crown in right of Ontario as is considered necessary or advisable for the purpose of carrying out its objects may be transferred to and vested in the Corporation for such purpose.

10. The Corporation, with the approval of the Lieutenant Governor^{Regulations} in Council, may make regulations,

- (a) regulating and governing the use by the public of Ontario Place and the works and things under the jurisdiction of the Corporation;
- (b) providing for the protection and preservation from damage of the property of the Corporation;
- (c) prescribing fees for entry into Ontario Place and in connection with any service or the use of any facility provided therein.

11. The property and the income, revenues and profits^{Revenue} of the Corporation shall be applied solely to promote the objects of the Corporation.

Grants and
loans

12. The Minister may, out of the moneys appropriated therefor by the Legislature, make grants or loans to the Corporation at such times, in such amounts and upon such terms and conditions as he considers advisable.

Audit

13. The accounts and financial transactions of the Corporation shall be audited annually by the Provincial Auditor.

Annual
report

14.—(1) The Corporation shall make a report annually to the Minister upon the affairs of the Corporation, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Reports

(2) The Corporation shall make such further reports to the Minister as the Minister may from time to time require.

Commence-
ment

15. This Act comes into force on the day it receives Royal Assent.

Short title

16. This Act may be cited as *The Ontario Place Corporation Act, 1972*.

An Act to incorporate
Ontario Place

1st Reading

April 21st, 1972

2nd Reading

May 2nd, 1972

3rd Reading

THE HON. J. WHITE
Minister of Industry and Tourism

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 82

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to incorporate Ontario Place

THE HON. J. WHITE
Minister of Industry and Tourism

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

BILL 82

1972

An Act to incorporate Ontario Place

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

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- (b) "Corporation" means Ontario Place Corporation;
- (c) "Minister" means the Minister of Industry and Tourism.

2. The Minister is responsible for the administration of this Act.

Administration of Act

3.—(1) There is hereby established, on behalf of Her Majesty in right of Ontario, a corporation without share capital under the name of Ontario Place Corporation.

Ontario Place Corporation established

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Composition

(3) The members shall be paid such remuneration as is fixed by the Lieutenant Governor in Council.

Remuneration of members

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Board of directors

(2) The Lieutenant Governor in Council shall designate one of the members to be chairman of the Board and may designate one of the members to be vice-chairman of the Board.

Chairman, vice-chairman

Acting
chairman

(3) In case of the absence or illness of the chairman or of there being a vacancy in the office of chairman, the vice-chairman or, if none, such director as the Board designates for such purpose shall act as and have all the powers of the chairman.

Quorum

(4) A majority of the directors shall constitute a quorum of the Board.

R.S.O. 1970,
c. 89 not to
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of
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employees

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Employees'
superannua-
tion benefits
R.S.O. 1970,
c. 387

(2) *The Public Service Superannuation Act* applies to the permanent and full-time probationary staff of the Corporation as though the Corporation had been designated by the Lieutenant Governor in Council under section 27 of that Act.

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- (d) to do such other things as the Minister may require from time to time and to advise the Minister on projects and programs of general advantage to the Province.

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- (b) to acquire, construct, operate, maintain and generally manage and provide recreational and exhibition facilities and programs, restaurants, theatres, shops and any and all other facilities or conveniences incidental to or necessary for the proper operation and maintenance of Ontario Place;
- (c) to make agreements with persons with respect to the establishment or operation by them of any works or services in connection with Ontario Place;
- (d) to receive and take from any person by grant, gift, devise, bequest or otherwise any property, real or personal or any interest therein.

(2) Subject to the approval of the Lieutenant Governor^{Transfer of assets} in Council, such property of the Crown in right of Ontario as is considered necessary or advisable for the purpose of carrying out its objects may be transferred to and vested in the Corporation for such purpose.

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- (a) regulating and governing the use by the public of Ontario Place and the works and things under the jurisdiction of the Corporation;
- (b) providing for the protection and preservation from damage of the property of the Corporation;
- (c) prescribing fees for entry into Ontario Place and in connection with any service or the use of any facility provided therein.

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Grants and
loans

12. The Minister may, out of the moneys appropriated therefor by the Legislature, make grants or loans to the Corporation at such times, in such amounts and upon such terms and conditions as he considers advisable.

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13. The accounts and financial transactions of the Corporation shall be audited annually by the Provincial Auditor.

Annual
report

14.—(1) The Corporation shall make a report annually to the Minister upon the affairs of the Corporation, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Reports

(2) The Corporation shall make such further reports to the Minister as the Minister may from time to time require.

Commence-
ment

15. This Act comes into force on the day it receives Royal Assent.

Short title

16. This Act may be cited as *The Ontario Place Corporation Act, 1972*.

An Act to incorporate
Ontario Place

1st Reading

April 21st, 1972

2nd Reading

May 2nd, 1972

3rd Reading

May 2nd, 1972

THE HON. J. WHITE
Minister of Industry and Tourism

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Mental Health Act

MR. SHULMAN

EXPLANATORY NOTE

The Bill requires that where a person charged with or convicted of an offence is ordered to attend a psychiatric facility for examination, he be examined by at least one psychiatrist.

BILL 83

1972

An Act to amend The Mental Health Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 14 of *The Mental Health Act*, being ^{s. 14 (1),} chapter 269 of the Revised Statutes of Ontario, 1970, is ^{amended} amended by adding at the end thereof "and the person shall be examined by at least one psychiatrist", so that the subsection shall read as follows:
 - (1) Where a judge has reason to believe that a person ^{Judge's} who appears before him charged with or convicted ^{order for} of an offence suffers from mental disorder, the judge ^{examination} may order the person to attend a psychiatric facility for examination, and the person shall be examined by at least one psychiatrist.
2. This Act comes into force on the day it receives Royal ^{Commence-} Assent. ^{ment}
3. This Act may be cited as *The Mental Health Amendment* ^{Short title} Act, 1972.

An Act to amend
The Mental Health Act

1st Reading

April 21st, 1972

2nd Reading

3rd Reading

MR. SHULMAN

(Private Member's Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Survivorship Act

THE HON. D. A. BALES
Attorney General

EXPLANATORY NOTE

The amendment corrects erroneous references to *The Insurance Act*.
The sections referred to provide for the rule when deaths occur simultaneously.

BILL 84

1972

An Act to amend The Survivorship Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 1 of *The Survivorship Act*, being ^{s. 1 (2),} chapter 454 of the Revised Statutes of Ontario, 1970, is ^{re-enacted} repealed and the following substituted therefor:

(2) This section shall be read and construed subject to ^{Exceptions} sections 190 and 268 of *The Insurance Act* and ^{R.S.O. 1970,} section 36 of *The Wills Act*. ^{cc. 224, 499}

2. This Act comes into force on the day it receives Royal ^{Commence-} Assent. ^{ment}

3. This Act may be cited as *The Survivorship Amendment* ^{Short title} Act, 1972.

An Act to amend
The Survivorship Act

1st Reading

April 24th, 1972

2nd Reading

3rd Reading

THE HON. D. A. BALES
Attorney General

(Government Bill)

BILL 84

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Survivorship Act

THE HON. D. A. BALES
Attorney General

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

BILL 84

1972

An Act to amend The Survivorship Act

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2. This Act comes into force on the day it receives Royal ^{Commence-} Assent. ^{ment}

3. This Act may be cited as *The Survivorship Amendment* ^{Short title} *Act, 1972*.

An Act to amend
The Survivorship Act

1st Reading

April 24th, 1972

2nd Reading

May 16th, 1972

3rd Reading

May 16th, 1972

THE HON. D. A. BALES
Attorney General

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Cancer Act

THE HON. R. T. POTTER
Minister of Health

Bill C-59 (1984)

EXPLANATORY NOTE

The section added is designed to encourage the forwarding of information respecting cases of cancer to The Ontario Cancer Treatment and Research Foundation; such information is to be kept confidential and doctors, dentists and hospitals are protected against damage actions based on the furnishing of such information.

BILL 85

1972

An Act to amend The Cancer Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Cancer Act*, being chapter 55 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

6a.—(1) Any information or report respecting a case of cancer furnished to the Foundation by any person shall be kept confidential and shall not be used or disclosed by the Foundation to any person for any purpose other than for compiling statistics or carrying out medical or epidemiological research.

(2) No action or other proceeding for damages lies or shall be instituted against any legally qualified medical practitioner or any licensed dental surgeon or any hospital in respect of the furnishing to the Foundation of any information or report with respect to a case of cancer examined, diagnosed or treated, by such medical practitioner or dental surgeon or at such hospital.

2. This Act comes into force on the day it receives Royal Assent.

3. This Act may be cited as *The Cancer Amendment Act, 1972*.

An Act to amend
The Cancer Act

1st Reading

April 25th, 1972

2nd Reading

3rd Reading

THE HON. R. T. POTTER
Minister of Health

(Government Bill)

BILL 85

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Cancer Act

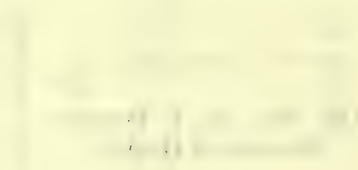
THE HON. R. T. POTTER
Minister of Health

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

THE JOURNAL OF THE
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BILL 85

1972

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6a.—(1) Any information or report respecting a case of cancer furnished to the Foundation by any person shall be kept confidential and shall not be used or disclosed by the Foundation to any person for any purpose other than for compiling statistics or carrying out medical or epidemiological research.

(2) No action or other proceeding for damages lies or shall be instituted against any legally qualified medical practitioner or any licensed dental surgeon or any hospital in respect of the furnishing to the Foundation of any information or report with respect to a case of cancer examined, diagnosed or treated, by such medical practitioner or dental surgeon or at such hospital.

2. This Act comes into force on the day it receives Royal Assent.

3. This Act may be cited as *The Cancer Amendment Act, 1972*.

An Act to amend
The Cancer Act

1st Reading

April 25th, 1972

2nd Reading

May 2nd, 1972

3rd Reading

May 2nd, 1972

THE HON. R. T. POTTER
Minister of Health

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to amend
The Ministry of Community and Social Services Act**

THE HON. R. BRUNELLE
Minister of Community and Social Services

CHAPTER I. THE THEORY OF COSTS.
PART II. ACCOUNTING FOR COSTS.

CHAPTER I. THE THEORY OF COSTS.
PART II. ACCOUNTING FOR COSTS.

EXPLANATORY NOTES

SECTION 1. Specific provision is made for the appointment of a Deputy Minister.

SECTION 2. The power to make grants in aid of the services mentioned is clarified.

BILL 86

1972

An Act to amend The Ministry of Community and Social Services Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of *The Ministry of Community and Social Services Act*, being chapter 120 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 19, subsection 3, is repealed and the following substituted therefor:

4.—(1) A Deputy Minister of Community and Social Services may be appointed by the Lieutenant Governor in Council. s. 4,
re-enacted
Deputy
Minister

(2) Such officers, clerks and servants as the Minister considers necessary for the proper conduct of the business of the Ministry may be appointed under *The Public Service Act*. Staff
R.S.O.
1970, c. 386

2. The said Act is amended by adding thereto the following section: s. 6d,
enacted

6d. The Lieutenant Governor in Council or the Minister may, out of moneys appropriated therefor by the Legislature, direct payment from time to time of grants and contributions for consultation, research and evaluation services with respect to programs of social services and for the provision, encouragement and development of credit counselling services, community development services and other social services. Grants re
social and
credit
counselling
services,
etc.

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. This Act may be cited as *The Ministry of Community and Social Services Amendment Act, 1972*. Short title

An Act to amend
The Ministry of Community
and Social Services Act

1st Reading

April 25th, 1972

2nd Reading

3rd Reading

THE HON. R. BRUNELLE
Minister of Community and Social Services

(Government Bill)

BILL 86

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Ministry of Community and Social Services Act

THE HON. R. BRUNELLE
Minister of Community and Social Services

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

BILL 86

1972

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4.—(1) A Deputy Minister of Community and Social Services may be appointed by the Lieutenant Governor in Council.

(2) Such officers, clerks and servants as the Minister considers necessary for the proper conduct of the business of the Ministry may be appointed under *The Public Service Act*.

R.S.O.
1970, c. 386

2. The said Act is amended by adding thereto the following section:

6d. The Lieutenant Governor in Council or the Minister may, out of moneys appropriated therefor by the Legislature, direct payment from time to time of grants and contributions for consultation, research and evaluation services with respect to programs of social services and for the provision, encouragement and development of credit counselling services, community development services and other social services.

Grants re
social and
credit
counselling
services,
etc.

3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

4. This Act may be cited as *The Ministry of Community and Social Services Amendment Act, 1972*.

Short title

An Act to amend
The Ministry of Community
and Social Services Act

1st Reading

April 25th, 1972

2nd Reading

May 25th, 1972

3rd Reading

May 25th, 1972

THE HON. R. BRUNELLE
Minister of Community and Social Services

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Ministry of Health Act

THE HON. R. T. POTTER
Minister of Health

EXPLANATORY NOTES

SECTION 1. The provision naming the Deputy Minister as the chief medical officer for Ontario is deleted.

SECTION 2. The provision naming the Deputy Minister as chairman of the Ontario Council of Health is deleted.

BILL 87

1972

An Act to amend The Ministry of Health Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 2 of *The Ministry of Health Act*, ^{s. 2 (3),} re-enacted being chapter 114 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

- (3) The Lieutenant Governor in Council may appoint a ^{Deputy} Minister of Health as deputy head of the Ministry.

2. Subsection 1 of section 7 of the said Act is repealed and ^{s. 7 (1),} re-enacted the following substituted therefor:

- (1) There shall be a senior advisory body to the Minister ^{Ontario} on health matters, known as the Ontario Council ^{Council} of ^{of Health} Health, consisting of a chairman and not fewer than sixteen other members as are appointed by the Lieutenant Governor in Council.

3. This Act comes into force on the day it receives Royal ^{Commence-} Assent. ^{ment}

4. This Act may be cited as *The Ministry of Health Amendment Act, 1972*. ^{Short title}

An Act to amend
The Ministry of Health Act

1st Reading

April 25th, 1972

2nd Reading

3rd Reading

THE HON. R. T. POTTER
Minister of Health

(Government Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Ministry of Health Act

THE HON. R. T. POTTER
Minister of Health

(Reprinted as amended by the Committee of the Whole House)

2ND SESSION, 39TH PARLIAMENT, ONTARIO
21 FEBRUARY 11, 1973

An Act to amend the Ministry of Health Act

EXPLANATORY NOTES

SECTION 1. The provision naming the Deputy Minister as the chief medical officer for Ontario is deleted.

SECTION 2. The provision naming the Deputy Minister as chairman of the Ontario Council of Health is deleted.

Printed as ordered by the Committee of the House of Commons

BILL 87

1972

An Act to amend The Ministry of Health Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 2 of *The Ministry of Health Act*, s. 2 (3), being chapter 114 of the Revised Statutes of Ontario, 1970, re-enacted is repealed and the following substituted therefor:

- (3) The Lieutenant Governor in Council may appoint a Deputy Minister of Health as deputy head of the Ministry. ^{Deputy Minister}

2. Subsection 1 of section 7 of the said Act is repealed and s. 7 (1), the following substituted therefor: re-enacted

- (1) There shall be a senior advisory body to the Minister on health matters, known as the Ontario Council of Health, consisting of a chairman and not fewer than sixteen other members as are appointed by the Lieutenant Governor in Council. ^{Ontario Council of Health}

3. This Act shall be deemed to have come into force on the 1st day of May, 1972. ^{Commence-ment}

4. This Act may be cited as *The Ministry of Health Amendment Act, 1972*. ^{Short title}

An Act to amend
The Ministry of Health Act

1st Reading

April 25th, 1972

2nd Reading

May 2nd, 1972

3rd Reading

THE HON. R. T. POTTER
Minister of Health

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 87

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Ministry of Health Act

THE HON. R. T. POTTER
Minister of Health

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

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- (3) The Lieutenant Governor in Council may appoint a ^{Deputy} Deputy Minister of Health as deputy head of the ^{Minister} Ministry.

2. Subsection 1 of section 7 of the said Act is repealed and ^{s. 7 (1),} the following substituted therefor: ^{re-enacted}

- (1) There shall be a senior advisory body to the Minister ^{Ontario} on health matters, known as the Ontario Council of ^{Council} Health, consisting of a chairman and not fewer than ^{of Health} sixteen other members as are appointed by the Lieutenant Governor in Council.

3. This Act shall be deemed to have come into force on the ^{Commence-} 1st day of May, 1972. ^{ment}

4. This Act may be cited as *The Ministry of Health Amend-* ^{Short title} *ment Act, 1972.*

An Act to amend
The Ministry of Health Act

1st Reading

April 25th, 1972

2nd Reading

May 2nd, 1972

3rd Reading

May 2nd, 1972

THE HON. R. T. POTTER
Minister of Health

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Change of Name Act

THE HON. D. A. BALES
Attorney General

EXPLANATORY NOTES

The Bill implements the Report of the Ontario Law Reform Commission on *The Change of Name Act*.

The principal purposes of the amendments are twofold:

1. Requirements on the basis of the residence of the applicant are introduced.
2. The distinction between applications by married men and those by married women is removed.

BILL 88 **1972**

**An Act to amend
The Change of Name Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 2 of *The Change of Name Act*, ^{s. 2 (3),} being chapter 60 of the Revised Statutes of Ontario, 1970, ^{re-enacted} is repealed and the following substituted therefor:

(3) Any person of the full age of eighteen years who effected a change of name in Ontario under a right ^{Application} that existed at law before the 26th day of June, 1939, ^{where name} ^{changed} ^{before} ^{June 26,} ¹⁹³⁹ may make an application under this Act to change his name from the name he bore before the change to the name he bears as a result of the change, as though the change had not been effected.

2. Subsection 1 of section 3 of the said Act is repealed ^{s. 3 (1),} and the following substituted therefor: ^{re-enacted}

(1) Any person may make an application who has ^{Who may} had his ordinary residence in Ontario for at least ^{apply} one year immediately before making the application and who is at least eighteen years of age.

3. Section 4 of the said Act is repealed and the following ^{s. 4,} substituted therefor: ^{re-enacted}

4.—(1) A married person applying for a change of sur- ^{Application} name shall also apply for a change of the surnames ^{by married} of his or her spouse and of all unmarried infant ^{person} children of the husband or of the marriage.

(2) A married person may apply for a change of the ^{Idem} given names of any or all of his or her unmarried infant children.

4. Subsection 4 of section 6 of the said Act is amended by ^{s. 6 (4),} striking out "Notwithstanding section 3" in the first line. ^{amended}

s. 8,
amended

5. Section 8 of the said Act is amended by striking out “Notwithstanding section 3” in the first line.

s. 9,
repealed

6. Section 9 of the said Act is repealed.

s. 10,
re-enacted

7. Section 10 of the said Act is repealed and the following substituted therefor:

Consent of
spouse and
children

10.—(1) Where an application includes an application for a change of the name of the spouse of the applicant or of any unmarried infant children of the age of fourteen years or over, the consent in writing of all such persons shall be obtained, and all such persons shall appear on the hearing of the application, provided that where the spouses have, in the opinion of the judge been living apart for a period of five years immediately before the application, the judge may hear the application in the absence of and without the consent of the spouse who is not applying, in which case no change of his or her name shall be effected.

Consent of
other parent
or spouse

(2) Where the consent of any person is required under subsection 3 or 4 of section 6 or under section 8, the consent in writing of all such persons shall be obtained, and all such persons shall appear on the hearing of the application.

Dispensing
with consent

(3) Notwithstanding subsection 2, where the judge is satisfied that the other parent in the case of an application under section 6 does not contribute to the support of the applicant or the children on whose behalf the application is made, or cannot be found, or is incapable of giving such consent, or for any reason is a person whose consent ought to be dispensed with, the judge may dispense with the service of the notice of the application on such person and may hear the application in his or her absence and without his or her consent.

s. 13 (1) (b-e),
re-enacted

8. Clauses *b*, *c*, *d* and *e* of subsection 1 of section 13 of the said Act are repealed and the following substituted therefor:

(b) where the applicant is married, the name in full before marriage of the applicant's spouse, and the date and place of the marriage;

(c) the name in full of the applicant's father and, where the applicant is married, the name in full of the father of the spouse of the applicant;

- (d) the maiden name in full of the mother of the applicant and, where the applicant is married, the maiden name in full of the mother of the spouse of the applicant;
- (e) that he has had his ordinary residence in Ontario for a period of not less than one year immediately before making the application.

9. Section 15 of the said Act is amended by adding "and" ^{s. 15, amended} at the end of clause *c*, by striking out "and" at the end of clause *d*, and by striking out clause *e*.

10. This Act does not apply in respect of applications for ^{Application of Act} change of name filed before this Act comes into force.

11. This Act comes into force on the 1st day of July, 1972. ^{Commence-ment}

12. This Act may be cited as *The Change of Name Amendment Act, 1972*. ^{Short title}

An Act to amend
The Change of Name Act

1st Reading

April 25th, 1972

2nd Reading

3rd Reading

THE HON. D. A. BALES
Attorney General

(Government Bill)

BILL 88

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Change of Name Act

THE HON. D. A. BALES
Attorney General

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

BILL 88

1972

An Act to amend The Change of Name Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 2 of *The Change of Name Act*, ^{s. 2 (3), re-enacted} being chapter 60 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

- (3) Any person of the full age of eighteen years who effected a change of name in Ontario under a right that existed at law before the 26th day of June, 1939, ^{Application where name changed before June 26, 1939} may make an application under this Act to change his name from the name he bore before the change to the name he bears as a result of the change, as though the change had not been effected.

2. Subsection 1 of section 3 of the said Act is repealed ^{s. 3 (1), re-enacted} and the following substituted therefor:

- (1) Any person may make an application who has had his ordinary residence in Ontario for at least one year immediately before making the application and who is at least eighteen years of age. ^{Who may apply}

3. Section 4 of the said Act is repealed and the following ^{s. 4, re-enacted} substituted therefor:

- 4.—(1) A married person applying for a change of sur- ^{Application by married person} name shall also apply for a change of the surnames of his or her spouse and of all unmarried infant children of the husband or of the marriage.

- (2) A married person may apply for a change of the ^{Idem} given names of any or all of his or her unmarried infant children.

4. Subsection 4 of section 6 of the said Act is amended by ^{s. 6 (4), amended} striking out "Notwithstanding section 3" in the first line.

s. 8,
amended

5. Section 8 of the said Act is amended by striking out "Notwithstanding section 3" in the first line.

s. 9,
repealed

6. Section 9 of the said Act is repealed.

s. 10,
re-enacted

7. Section 10 of the said Act is repealed and the following substituted therefor:

Consent of
spouse and
children

10.—(1) Where an application includes an application for a change of the name of the spouse of the applicant or of any unmarried infant children of the age of fourteen years or over, the consent in writing of all such persons shall be obtained, and all such persons shall appear on the hearing of the application, provided that where the spouses have, in the opinion of the judge been living apart for a period of five years immediately before the application, the judge may hear the application in the absence of and without the consent of the spouse who is not applying, in which case no change of his or her name shall be effected.

Consent of
other parent
or spouse

(2) Where the consent of any person is required under subsection 3 or 4 of section 6 or under section 8, the consent in writing of all such persons shall be obtained, and all such persons shall appear on the hearing of the application.

Dispensing
with consent

(3) Notwithstanding subsection 2, where the judge is satisfied that the other parent in the case of an application under section 6 does not contribute to the support of the applicant or the children on whose behalf the application is made, or cannot be found, or is incapable of giving such consent, or for any reason is a person whose consent ought to be dispensed with, the judge may dispense with the service of the notice of the application on such person and may hear the application in his or her absence and without his or her consent.

s. 13 (1) (b-e),
re-enacted

8. Clauses *b*, *c*, *d* and *e* of subsection 1 of section 13 of the said Act are repealed and the following substituted therefor:

(b) where the applicant is married, the name in full before marriage of the applicant's spouse, and the date and place of the marriage;

(c) the name in full of the applicant's father and, where the applicant is married, the name in full of the father of the spouse of the applicant;

- (d) the maiden name in full of the mother of the applicant and, where the applicant is married, the maiden name in full of the mother of the spouse of the applicant;
- (e) that he has had his ordinary residence in Ontario for a period of not less than one year immediately before making the application.

9. Section 15 of the said Act is amended by adding “and”^{s. 15, amended} at the end of clause *c*, by striking out “and” at the end of clause *d*, and by striking out clause *e*.

10. This Act does not apply in respect of applications for^{Application of Act} change of name filed before this Act comes into force.

11. This Act comes into force on the 1st day of July, 1972.^{Commence-ment}

12. This Act may be cited as *The Change of Name Amendment Act, 1972*.^{Short title}

An Act to amend
The Change of Name Act

1st Reading

April 25th, 1972

2nd Reading

May 16th, 1972

3rd Reading

May 16th, 1972

THE HON. D. A. BALES
Attorney General

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Professional Engineers Act

THE HON. D. A. BALES
Attorney General

EXPLANATORY NOTE

At present the head office of the Association of Professional Engineers is required to be in the City of Toronto. The amendment would widen the area to The Municipality of Metropolitan Toronto.

BILL 89

1972

**An Act to amend
The Professional Engineers Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 4 of section 3 of *The Professional Engineers Act*, being chapter 366 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

(4) The head office of the Association shall be in The Municipality of Metropolitan Toronto.

2. This Act comes into force on the day it receives Royal Assent.

3. This Act may be cited as *The Professional Engineers Amendment Act, 1972*.

An Act to amend
The Professional Engineers Act

1st Reading

April 25th, 1972

2nd Reading

3rd Reading

THE HON. D. A. BALES
Attorney General

(Government Bill)

BILL 89

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Professional Engineers Act

THE HON. D. A. BALES
Attorney General

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

BILL 89

1972

**An Act to amend
The Professional Engineers Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 4 of section 3 of *The Professional Engineers Act*, being chapter 366 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

(4) The head office of the Association shall be in The Municipality of Metropolitan Toronto.

2. This Act comes into force on the day it receives Royal Assent.

3. This Act may be cited as *The Professional Engineers Amendment Act, 1972*.

An Act to amend
The Professional Engineers Act

1st Reading

April 25th, 1972

2nd Reading

May 16th, 1972

3rd Reading

May 16th, 1972

THE HON. D. A. BALES
Attorney General

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The City of The Lakehead Act, 1968-69

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs

EXPLANATORY NOTES

The first council of the City of Thunder Bay was elected in accordance with special provisions to allow each part of the new city to have sufficient representation.

Four members of the council had their seats declared vacant and provision must now be made to permit the holding of elections to fill these four seats.

BILL 90

1972

**An Act to amend
The City of The Lakehead Act, 1968-69**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 3 of *The City of The Lakehead Act, 1968-69*, being chapter 56, is repealed and the following substituted therefor: ^{s. 3 (3), re-enacted}

(3) Notwithstanding the provisions of this or any other general or special Act, the Minister by order may provide for the holding of any elections judicially ordered in the year 1972, for members of the council of the City, including establishment of wards within the City, polling day, nomination meetings, appointment of a returning officer, preparation of a voters' list, the qualifications of candidates and electors and any other matters as are deemed necessary in respect of any such election. ^{Judicially ordered election}

2. Section 12 of the said Act is amended by adding thereto the following subsection: ^{s. 12, amended}

(1a) In this section, "Department" means the Ministry of Revenue. ^{Interpretation}

3. This Act comes into force on the day it receives Royal Assent. ^{Commencement}

4. This Act may be cited as *The City of The Lakehead Amendment Act, 1972*. ^{Short title}

An Act to amend
The City of The Lakehead Act, 1968-69

1st Reading

April 27th, 1972

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of
Economics and Intergovernmental Affairs

(Government Bill)

BILL 90

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The City of The Lakehead Act, 1968-69

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

BILL 90

1972

**An Act to amend
The City of The Lakehead Act, 1968-69**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 3 of *The City of The Lakehead Act, 1968-69*, being chapter 56, is repealed and the following substituted therefor: ^{s. 3 (3), re-enacted}

(3) Notwithstanding the provisions of this or any other general or special Act, the Minister by order may ^{Judicially ordered election} provide for the holding of any elections judicially ordered in the year 1972, for members of the council of the City, including establishment of wards within the City, polling day, nomination meetings, appointment of a returning officer, preparation of a voters' list, the qualifications of candidates and electors and any other matters as are deemed necessary in respect of any such election.

2. Section 12 of the said Act is amended by adding thereto ^{s. 12, amended} the following subsection:

(1a) In this section, "Department" means the Ministry ^{Interpretation} of Revenue.

3. This Act comes into force on the day it receives Royal ^{Commence-ment} Assent.

4. This Act may be cited as *The City of The Lakehead* ^{Short title} *Amendment Act, 1972*.

An Act to amend
The City of The Lakehead Act, 1968-69

1st Reading

April 27th, 1972

2nd Reading

May 2nd, 1972

3rd Reading

May 2nd, 1972

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of
Economics and Intergovernmental Affairs

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Municipal Affairs Act

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs

EXPLANATORY NOTE

The effect of the amendment is to permit the Ministry of Treasury, Economics and Intergovernmental Affairs to require the vacating of a tax arrears certificate by a municipality where there has been a failure on its part to notify the Public Trustee of the registration of the tax arrears certificate under subsection 5 of section 47 of the Act.

BILL 91

1972

An Act to amend The Municipal Affairs Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 52 of *The Municipal Affairs Act*, ^{s. 52 (1),} amended being chapter 118 of the Revised Statutes of Ontario, 1970, is amended by inserting after "subsection 4" in the seventh line "or 5".
2. This Act comes into force on the day it receives Royal ^{Commence-} Assent._{ment}
3. This Act may be cited as *The Municipal Affairs Amend-* Short title
ment Act, 1972.

An Act to amend
The Municipal Affairs Act

1st Reading

April 27th, 1972

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of
Economics and Intergovernmental Affairs

(Government Bill)

BILL 91

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Municipal Affairs Act

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

BILL 91

1972

An Act to amend The Municipal Affairs Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 52 of *The Municipal Affairs Act*, ^{s. 52 (1), amended} being chapter 118 of the Revised Statutes of Ontario, 1970, is amended by inserting after "subsection 4" in the seventh line "or 5".
2. This Act comes into force on the day it receives Royal ^{Commence-}Assent._{ment}
3. This Act may be cited as *The Municipal Affairs Amend-* ^{Short title}
ment Act, 1972.

An Act to amend
The Municipal Affairs Act

1st Reading

April 27th, 1972

2nd Reading

May 9th, 1972

3rd Reading

May 11th, 1972

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of
Economics and Intergovernmental Affairs

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Local Improvement Act

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs

EXPLANATORY NOTES

SECTION 1. "Value" is presently defined as the assessed value, exclusive of buildings; the amendment brings the definition into line with the concept of full market value expressed in *The Assessment Act*.

SECTION 2. The amendment is complementary to a recent change in *The Assessment Act* whereby appeals are sent in the first instance to the regional registrar of the Assessment Review Court rather than the assessment commissioner.

BILL 92

1972

An Act to amend The Local Improvement Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 26 of section 1 of *The Local Improvement Act*, being chapter 255 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 1, par. 26, re-enacted

26. "value" means the assessed value according to the last revised assessment roll of the municipality.

2. Subsection 2 of section 52 of the said Act is amended s. 52 (2), amended by striking out "assessment commissioner" in the fifth line and inserting in lieu thereof "regional registrar of the Assessment Review Court".

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. This Act may be cited as *The Local Improvement Amend-
ment Act, 1972*. Short title

An Act to amend
The Local Improvement Act

1st Reading

April 27th, 1972

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of
Economics and Intergovernmental Affairs

(Government Bill)

BILL 92

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Local Improvement Act

THE HON. W. D. McKEOUGH

Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

BILL 92

1972

An Act to amend The Local Improvement Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 26 of section 1 of *The Local Improvement Act*, being chapter 255 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 1, par. 26, re-enacted

26. "value" means the assessed value according to the last revised assessment roll of the municipality.

2. Subsection 2 of section 52 of the said Act is amended s. 52 (2), amended by striking out "assessment commissioner" in the fifth line and inserting in lieu thereof "regional registrar of the Assessment Review Court".

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. This Act may be cited as *The Local Improvement Amendment Act, 1972*. Short title

An Act to amend
The Local Improvement Act

1st Reading

April 27th, 1972

2nd Reading

May 9th, 1972

3rd Reading

May 11th, 1972

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of
Economics and Intergovernmental Affairs

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Farm Products Grades and Sales Act

THE HON. W. A. STEWART
Minister of Agriculture and Food

T O R O N T O

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

EXPLANATORY NOTES

SECTION 1. Complementary to subsection 2 of section 2.

SECTION 2.—Subsection 1. The authority to make regulations is enlarged.

Subsection 2. Authority is granted to adopt by regulation in whole or in part any grade, standard or grade name established under the *Canada Agricultural Products Standards Act*.

SECTION 3. The re-enacted sections limit the present powers of inspectors under the Act and are brought into line with similar provisions in other Acts under the administration and control of the Minister.

BILL 93

1972

An Act to amend The Farm Products Grades and Sales Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *b* of section 1 of *The Farm Products Grades and Sales Act*, being chapter 161 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: ^{s. 1 (b), re-enacted}

(b) "grade" means, except in subsection 4 of section 2, a grade established under this Act.

2.—(1) Subsection 1 of section 2 of the said Act is amended ^{s. 2 (1), amended} by adding thereto the following clause:

(1a) prescribing the structures, facilities and equipment to be provided and maintained for use in connection with the grading of farm products.

(2) The said section 2 is amended by adding thereto the ^{s. 2, amended} following subsection:

(4) Any regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any grade, standard or grade name established under the *Canada Agricultural Products Standards Act*, as amended or re-enacted ^{Authority to adopt grades, etc., by reference} from time to time, and may require compliance with any such grade, standard or grade name so adopted, including any such changes. ^{R.S.C. 1970, c. A-8}

3. Sections 6, 7 and 8 of the said Act are repealed and the ^{ss. 6-8, re-enacted} following substituted therefor:

6.—(1) For the purpose of enforcing this Act and the ^{Powers of inspector} regulations, an inspector may,

- (a) enter any premises, other than a dwelling, that he has reason to believe is used for the producing, marketing or processing of any farm product and inspect the premises and any farm product, packages or equipment found therein;
- (b) enter any vessel, boat, car, truck or other conveyance in which he has reason to believe there is any farm product and inspect the vessel, boat, car, truck or other conveyance and any farm product, packages or equipment found therein;
- (c) obtain a sample of any farm product or package thereof at the expense of the owner for the purpose of making an inspection thereof; and
- (d) demand the production or furnishing by the owner or custodian thereof of any books, records, documents or extracts therefrom relating to farm products.

Production
of documents

- (2) Where an inspector demands the production or furnishing of books, records, documents or extracts therefrom, the person having custody thereof shall produce or furnish them to the inspector and the inspector may detain them for the purpose of photocopying them, provided such photocopying is carried out with reasonable dispatch and the inspector shall forthwith thereafter return them to the person who produced or furnished them.

Certification
of photocopy

- (3) Where a book, record, document or extract has been photocopied under subsection 2, a photocopy purporting to be certified by an inspector to be a copy made pursuant to subsection 2 is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

Demand to
be in
writing

- (4) Where an inspector makes a demand under clause *d* of subsection 1, the demand shall be in writing and shall include a statement of the nature of the investigation and the general nature of the books, records, documents or extracts required.

Detention
for purposes
of
inspection

- 7.—(1) For the purpose of inspecting any farm product or package, an inspector may detain it at the risk and expense of the owner and, after detaining it, the inspector shall forthwith notify the owner or person who had possession of it of the detention.

- (2) Where an inspector detains any farm product or package under subsection 1, he shall, as soon as may be practicable, inspect the farm product or package and shall forthwith thereafter,
- (a) release the farm product or package from detention; or
 - (b) detain the farm product or package under subsection 3.
- (3) Any farm product or package in respect of which an inspector believes on reasonable grounds an offence against this Act or the regulations has been committed, may be detained by him at the risk and expense of the owner, and the inspector shall forthwith thereafter notify the owner or the person who had possession thereof of the detention in writing.
- (4) A notice given by an inspector under subsection 1 shall contain the particulars in respect of which it is alleged the farm product or package does not comply with the Act or the regulations.
- (5) Where an inspector is satisfied that the owner of the farm product or package that is under detention complies with the Act and the regulations respecting the farm product or package, the inspector shall forthwith release them from detention.
- (6) Where a person is convicted of an offence against this Act or the regulations in respect of any farm product or package detained under subsection 3, the convicting judge may declare such farm product or package to be forfeited to Her Majesty, whereupon it may be destroyed or otherwise disposed of as the Minister directs.
- (7) No person shall, without approval in writing by an inspector, sell, offer for sale, move, ship or transport a farm product or package that is under detention.
- (8) Where any farm product is detained under subsection 1 or 3, the farm product shall be detained in the place where it was found by the inspector and shall, while under detention,
- (a) be kept in such place; or
 - (b) be kept in such other place as it may be moved to with the approval in writing of an inspector pursuant to subsection 7.

Obstruction
of inspector
or grader

8. No person shall hinder or obstruct an inspector or grader in the course of his duties or furnish an inspector or grader with false information or refuse to permit any farm product to be inspected or refuse to furnish an inspector or grader with information.

s. 10,
re-enacted

4. Section 10 of the said Act is repealed and the following substituted therefor:

Offences

- 10.—(1) Except as provided in subsection 2, every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a subsequent offence.

Idem

- (2) Every person who contravenes any of the provisions of section 8 is guilty of an offence and on summary conviction is liable to a fine of not less than \$200 and not more than \$1,000.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. This Act may be cited as *The Farm Products Grades and Sales Amendment Act, 1972*.

SECTION 4. The minimum and maximum penalties for a first offence under the Act or the regulations are increased from \$10 and \$50 to \$25 and \$100 respectively.

An Act to amend
The Farm Products Grades and Sales Act

1st Reading

April 27th, 1972

2nd Reading

3rd Reading

THE HON. W. A. STEWART
Minister of Agriculture and Food

(Government Bill)

BILL 93

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Farm Products Grades and Sales Act

THE HON. W. A. STEWART
Minister of Agriculture and Food

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

BILL 93

1972

An Act to amend The Farm Products Grades and Sales Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *b* of section 1 of *The Farm Products Grades and Sales Act*, being chapter 161 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: ^{s. 1 (b), re-enacted}

(*b*) "grade" means, except in subsection 4 of section 2, a grade established under this Act.

2.—(1) Subsection 1 of section 2 of the said Act is amended ^{s. 2 (1), amended} by adding thereto the following clause:

(*1a*) prescribing the structures, facilities and equipment to be provided and maintained for use in connection with the grading of farm products.

(2) The said section 2 is amended by adding thereto the ^{s. 2, amended} following subsection:

(4) Any regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any grade, standard or grade name established under the *Canada Agricultural Products Standards Act*, as amended or re-enacted from time to time, and may require compliance with any such grade, standard or grade name so adopted, including any such changes. ^{Authority to adopt grades, etc., by reference R.S.C. 1970, c. A-8}

3. Sections 6, 7 and 8 of the said Act are repealed and the ^{ss. 6-8, re-enacted} following substituted therefor:

6.—(1) For the purpose of enforcing this Act and the ^{Powers of inspector} regulations, an inspector may,

- (a) enter any premises, other than a dwelling, that he has reason to believe is used for the producing, marketing or processing of any farm product and inspect the premises and any farm product, packages or equipment found therein;
- (b) enter any vessel, boat, car, truck or other conveyance in which he has reason to believe there is any farm product and inspect the vessel, boat, car, truck or other conveyance and any farm product, packages or equipment found therein;
- (c) obtain a sample of any farm product or package thereof at the expense of the owner for the purpose of making an inspection thereof; and
- (d) demand the production or furnishing by the owner or custodian thereof of any books, records, documents or extracts therefrom relating to farm products.

Production
of documents

- (2) Where an inspector demands the production or furnishing of books, records, documents or extracts therefrom, the person having custody thereof shall produce or furnish them to the inspector and the inspector may detain them for the purpose of photocopying them, provided such photocopying is carried out with reasonable dispatch and the inspector shall forthwith thereafter return them to the person who produced or furnished them.

Certification
of photocopy

- (3) Where a book, record, document or extract has been photocopied under subsection 2, a photocopy purporting to be certified by an inspector to be a copy made pursuant to subsection 2 is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

Demand to
be in
writing

- (4) Where an inspector makes a demand under clause *d* of subsection 1, the demand shall be in writing and shall include a statement of the nature of the investigation and the general nature of the books, records, documents or extracts required.

Detention
for purposes
of
inspection

- 7.—(1) For the purpose of inspecting any farm product or package, an inspector may detain it at the risk and expense of the owner and, after detaining it, the inspector shall forthwith notify the owner or person who had possession of it of the detention.

- (2) Where an inspector detains any farm product or package under subsection 1, he shall, as soon as may be practicable, inspect the farm product or package and shall forthwith thereafter, ^{Inspection after detention}
- (a) release the farm product or package from detention; or
 - (b) detain the farm product or package under subsection 3.
- (3) Any farm product or package in respect of which an inspector believes on reasonable grounds an offence against this Act or the regulations has been committed, may be detained by him at the risk and expense of the owner, and the inspector shall forthwith thereafter notify the owner or the person who had possession thereof of the detention in writing. ^{Notice of detention}
- (4) A notice given by an inspector under subsection 3 shall contain the particulars in respect of which it is alleged the farm product or package does not comply with the Act or the regulations. ^{Notice to contain particulars}
- (5) Where an inspector is satisfied that the owner of the farm product or package that is under detention complies with the Act and the regulations respecting the farm product or package, the inspector shall forthwith release them from detention. ^{Release from detention}
- (6) Where a person is convicted of an offence against this Act or the regulations in respect of any farm product or package detained under subsection 3, the convicting judge may declare such farm product or package to be forfeited to Her Majesty, whereupon it may be destroyed or otherwise disposed of as the Minister directs. ^{Forfeiture}
- (7) No person shall, without approval in writing by an inspector, sell, offer for sale, move, ship or transport a farm product or package that is under detention. ^{Prohibition against sale, etc.}
- (8) Where any farm product is detained under subsection 1 or 3, the farm product shall be detained in the place where it was found by the inspector and shall, while under detention, ^{Place where detained product to be kept}
- (a) be kept in such place; or
 - (b) be kept in such other place as it may be moved to with the approval in writing of an inspector pursuant to subsection 7.

Obstruction
of inspector
or grader

8. No person shall hinder or obstruct an inspector or grader in the course of his duties or furnish an inspector or grader with false information or refuse to permit any farm product to be inspected or refuse to furnish an inspector or grader with information.

s. 10,
re-enacted

4. Section 10 of the said Act is repealed and the following substituted therefor:

Offences

- 10.—(1) Except as provided in subsection 2, every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a subsequent offence.

Idem

- (2) Every person who contravenes any of the provisions of section 8 is guilty of an offence and on summary conviction is liable to a fine of not less than \$200 and not more than \$1,000.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. This Act may be cited as *The Farm Products Grades and Sales Amendment Act, 1972*.

An Act to amend
The Farm Products Grades and Sales Act

1st Reading

April 27th, 1972

2nd Reading

May 2nd, 1972

3rd Reading

May 2nd, 1972

THE HON. W. A. STEWART
Minister of Agriculture and Food

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act respecting
the Installation of Agricultural Tile Drainage**

THE HON. W. A. STEWART
Minister of Agriculture and Food

EXPLANATORY NOTES

The Bill establishes a system that provides for the licensing of contractors, equipment operators and equipment used in the installation of agricultural tile drainage.

An appeal from the refusal to issue or renew a licence or from the suspension or revocation of a licence is provided to the Agricultural Tile Drainage Licence Review Board and from that board to the Supreme Court.

Provision is made for the inspection of drainage works and regulations will prescribe the facilities and equipment required, the standards and procedures for the installation of drainage works, the performance standards for equipment, and related matters.

BILL 94 **1972**

**An Act respecting
the Installation of Agricultural Tile Drainage**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Board" means the Agricultural Tile Drainage Licence Review Board established by this Act;
- (b) "Director" means the Director appointed for the purpose of this Act;
- (c) "drainage work" means a drainage system constructed of tile, pipe or tubing of any material beneath the surface of agricultural land, including integral inlets and outlets, for the purpose of improving the productivity of the land drained;
- (d) "inspector" means an inspector appointed under this Act;
- (e) "licence" means a licence under this Act;
- (f) "Minister" means the Minister of Agriculture and Food;
- (g) "regulations" means the regulations made under this Act.

2.—(1) No person shall carry on the business of installing ^{Licences} a drainage work unless he is the holder of a licence for such purpose from the Director.

(2) No person shall be the operator of a machine used in ^{Idem} installing a drainage work unless he is the holder of a licence for such purpose from the Director.

Idem

(3) No person shall use, or permit or cause to be used, in installing a drainage work a machine unless the owner of the machine has obtained a licence therefor from the Director and the licence is attached to and exposed on the machine.

Non-application of Act

3. Where a person performs the installation of a drainage work on agricultural land owned or occupied by him, this Act does not apply.

Issue of licence

4.—(1) The Director shall issue a licence to carry on the business of installing drainage works to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that,

- (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to carry on the business;
- (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the business will not be carried on in accordance with law;
- (c) the applicant does not possess or will not have available all facilities and equipment necessary to carry on the business in accordance with this Act and the regulations; or
- (d) the applicant is not in a position to observe and carry out the provisions of this Act and the regulations.

Idem

(2) The Director shall issue a licence to be the operator of a machine used in installing drainage works to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that,

- (a) the applicant is not competent to operate the machinery or class thereof in respect of which the application is made;
- (b) the applicant has not attended the courses of instruction and passed the examinations prescribed in the regulations for the class of licence applied for;
- (c) the applicant has not completed the in-service training period prescribed in the regulations for the class of licence applied for; or

- (d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.

(3) The Director shall issue a licence for a machine used in ^{Idem} installing drainage works on application therefor by the owner and payment of the prescribed fee unless, after a hearing, he is of opinion that the machine,

- (a) is not properly designed, constructed or equipped for the purposes for which it will be used;
- (b) is not in good working order; or
- (c) does not comply with performance standards prescribed in the regulations.

(4) Subject to section 5, the Director shall renew a licence ^{Renewal of licence} that is or has expired, on application by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.

5.—(1) The Director may refuse to renew or may suspend ^{Refusal to renew licence, suspension or revocation} or revoke a licence to carry on the business of installing drainage works if, after a hearing, he is of opinion that,

- (a) the facilities and equipment used in the business do not comply with this Act and the regulations;
- (b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened or has permitted any person under his control or direction in connection with the business to contravene, any provision of this Act or the regulations and such contravention warrants refusal to renew, suspension or revocation of the licence; or
- (c) any other ground for refusal to renew, suspension or revocation specified in the regulations exists.

(2) The Director may refuse to renew or may suspend ^{Idem} or revoke a licence to be the operator of a machine used in installing drainage works if, after a hearing, he is of opinion that,

- (a) the licensee has contravened or has permitted any person under his control or direction in connection with the operation of the machine to contravene any provision of this Act or the regulations and such contravention warrants a refusal to renew, suspension or revocation; or

- (b) any other ground for refusal to renew, suspension or revocation specified in the regulations exists.

Idem

(3) The Director may refuse to renew or may suspend or revoke a licence for a machine used in installing drainage works if, after a hearing, he is of opinion that,

- (a) any ground for refusing to issue a licence exists ;
- (b) the owner or any other person permitted to have the control or use of the machine has contravened any provisions of this Act or the regulations and such contravention warrants a refusal to renew, suspension or revocation ; or
- (c) any other ground for refusal to renew, suspension or revocation specified in the regulations exists.

Continuation
of licence
pending
renewal

(4) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and has paid the prescribed fee and observed and carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal.

Notice of
hearing

6.—(1) The Notice of a hearing by the Director under section 4 or 5 shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination
of docu-
mentary
evidence

(2) An applicant or licensee who is a party to proceedings in which the Director holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Variation of
decision by
Director

7. Where the Director has refused to issue or renew or has suspended or revoked a licence pursuant to a hearing he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.

Review
Board
established

8.—(1) A board to be known as the “Agricultural Tile Drainage Licence Review Board” is hereby established and

shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Ministry of Agriculture and Food, and who shall, subject to subsection 2, hold office during pleasure.

(2) A member of the Board shall hold office for not more ^{Term of office} than five consecutive years.

(3) The Lieutenant Governor in Council may appoint one of ^{Chairman, etc.} the members of the Board as chairman and another of the members as vice-chairman.

(4) A majority of the members of the Board constitutes ^{Quorum} a quorum.

(5) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. ^{Remuneration}

9.—(1) Where the Director refuses to issue or renew or ^{Appeal to Board} suspends or revokes a licence, the applicant or licensee may, by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director, appeal to the Board.

(2) The Board may extend the time for the giving of notice ^{Extension of time for appeal} by an applicant or licensee under subsection 1, either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

(3) Where an applicant or licensee appeals to the Board ^{Disposal of appeal} under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director.

(4) Notwithstanding that an applicant or licensee has ^{Effect of decision pending disposal of appeal} appealed under this section from a decision of the Director, unless the Director otherwise directs, the decision of the Director is effective until the appeal is disposed of.

10.—(1) The Director, the appellant and such other ^{Parties} persons as the Board may specify are parties to the proceedings before the Board under this Act.

Members making decision not to have taken part in investigation, etc.

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

(4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

1971, c. 47

Only members at hearing to participate in decision

(5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all persons so present participate in the decision.

Appeal to court

11.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Supreme Court in accordance with the rules of Court.

Minister entitled to be heard

(2) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Record to be filed in court

(3) The chairman of the Board shall certify to the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.

Powers of court on appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the Director to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Director or the Board.

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of.

Effect of
decision of
Board
pending
disposal of
appeal

12.—(1) For the purposes of this Act, the Minister may appoint a Director and one or more inspectors.

Appointment
of Director
and
inspectors

(2) For the purposes of carrying out his duties under this Act, an inspector may at any time between sunrise and sunset enter any premises or building other than a dwelling house, but nothing in this section affects the issuance and execution of a warrant under section 16 of *The Summary Convictions Act*.

Powers of
inspector

R.S.O. 1970,
c. 450

(3) The production by an inspector of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature or authority of the Minister.

Certificate of
appointment

13. No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information or refuse to furnish him with information.

Obstruction

14. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$25 and for a subsequent offence to a fine of not more than \$100.

Offence

15. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) providing for the manner of issuing licences and prescribing their duration, the fees payable therefor and the terms and conditions on which they are issued;
- (b) prescribing grounds for refusal to renew, suspension or revocation of licences in addition to the grounds mentioned in section 5;
- (c) establishing classes of machine operators and prescribing the qualifications for each class and the duties that may be performed by each class;
- (d) providing for courses of instruction and examinations and requiring licence holders or applicants for a licence under this Act to attend such courses and pass such examinations;

- (e) prescribing the facilities and equipment to be provided by persons engaged in the business of installing drainage works;
- (f) prescribing standards and procedures for the installation of drainage works;
- (g) prescribing performance standards for machines used in installing drainage works;
- (h) prescribing forms and providing for their use;
- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Commence-
ment

16. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

17. This Act may be cited as *The Agricultural Tile Drainage Installation Act, 1972*.

An Act respecting
the Installation of
Agricultural Tile Drainage

1st Reading

April 27th, 1972

2nd Reading

3rd Reading

THE HON. W. A. STEWART
Minister of Agriculture and Food

(Government Bill)

BILL 94

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act respecting the Installation of Agricultural Tile Drainage

THE HON. W. A. STEWART
Minister of Agriculture and Food

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

An Act respecting the Installation of Agricultural Tile Drainage

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Board" means the Agricultural Tile Drainage Licence Review Board established by this Act;
- (b) "Director" means the Director appointed for the purpose of this Act;
- (c) "drainage work" means a drainage system constructed of tile, pipe or tubing of any material beneath the surface of agricultural land, including integral inlets and outlets, for the purpose of improving the productivity of the land drained;
- (d) "inspector" means an inspector appointed under this Act;
- (e) "licence" means a licence under this Act;
- (f) "Minister" means the Minister of Agriculture and Food;
- (g) "regulations" means the regulations made under this Act.

2.—(1) No person shall carry on the business of installing ^{Licences} a drainage work unless he is the holder of a licence for such purpose from the Director.

(2) No person shall be the operator of a machine used in ^{Idem} installing a drainage work unless he is the holder of a licence for such purpose from the Director.

Idem

(3) No person shall use, or permit or cause to be used, in installing a drainage work a machine unless the owner of the machine has obtained a licence therefor from the Director and the licence is attached to and exposed on the machine.

Non-application of Act

3. Where a person performs the installation of a drainage work on agricultural land owned or occupied by him, this Act does not apply.

Issue of licence

4.—(1) The Director shall issue a licence to carry on the business of installing drainage works to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that,

- (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to carry on the business;
- (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the business will not be carried on in accordance with law;
- (c) the applicant does not possess or will not have available all facilities and equipment necessary to carry on the business in accordance with this Act and the regulations; or
- (d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.

Idem

(2) The Director shall issue a licence to be the operator of a machine used in installing drainage works to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that,

- (a) the applicant is not competent to operate the machinery or class thereof in respect of which the application is made;
- (b) the applicant has not attended the courses of instruction and passed the examinations prescribed in the regulations for the class of licence applied for;
- (c) the applicant has not completed the in-service training period prescribed in the regulations for the class of licence applied for; or

- (d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.

(3) The Director shall issue a licence for a machine used in installing drainage works on application therefor by the owner and payment of the prescribed fee unless, after a hearing, he is of opinion that the machine,

- (a) is not properly designed, constructed or equipped for the purposes for which it will be used ;
- (b) is not in good working order ; or
- (c) does not comply with performance standards prescribed in the regulations.

(4) Subject to section 5, the Director shall renew a licence that is or has expired, on application by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.

5.—(1) The Director may refuse to renew or may suspend or revoke a licence to carry on the business of installing drainage works if, after a hearing, he is of opinion that,

- (a) the facilities and equipment used in the business do not comply with this Act and the regulations ;
- (b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened or has permitted any person under his control or direction in connection with the business to contravene, any provision of this Act or the regulations and such contravention warrants refusal to renew, suspension or revocation of the licence ; or
- (c) any other ground for refusal to renew, suspension or revocation specified in the regulations exists.

(2) The Director may refuse to renew or may suspend or revoke a licence to be the operator of a machine used in installing drainage works if, after a hearing, he is of opinion that,

- (a) the licensee has contravened or has permitted any person under his control or direction in connection with the operation of the machine to contravene any provision of this Act or the regulations and such contravention warrants a refusal to renew, suspension or revocation ; or

- (b) any other ground for refusal to renew, suspension or revocation specified in the regulations exists.

Idem

(3) The Director may refuse to renew or may suspend or revoke a licence for a machine used in installing drainage works if, after a hearing, he is of opinion that,

- (a) any ground for refusing to issue a licence exists;
- (b) the owner or any other person permitted to have the control or use of the machine has contravened any provisions of this Act or the regulations and such contravention warrants a refusal to renew, suspension or revocation; or
- (c) any other ground for refusal to renew, suspension or revocation specified in the regulations exists.

Continuation
of licence
pending
renewal

(4) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and has paid the prescribed fee and observed and carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal.

Notice of
hearing

6.—(1) The Notice of a hearing by the Director under section 4 or 5 shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination
of docu-
mentary
evidence

(2) An applicant or licensee who is a party to proceedings in which the Director holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Variation of
decision by
Director

7. Where the Director has refused to issue or renew or has suspended or revoked a licence pursuant to a hearing he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.

Review
Board
established

8.—(1) A board to be known as the “Agricultural Tile Drainage Licence Review Board” is hereby established and

shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Ministry of Agriculture and Food, and who shall, subject to subsection 2, hold office during pleasure.

(2) A member of the Board shall hold office for not more ^{Term of office} than five consecutive years.

(3) The Lieutenant Governor in Council may appoint one of ^{Chairman, etc.} the members of the Board as chairman and another of the members as vice-chairman.

(4) A majority of the members of the Board constitutes ^{Quorum} a quorum.

(5) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council may ^{Remuneration} determine.

9.—(1) Where the Director refuses to issue or renew or ^{Appeal to Board} suspends or revokes a licence, the applicant or licensee may, by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director, appeal to the Board.

(2) The Board may extend the time for the giving of notice ^{Extension of time for appeal} by an applicant or licensee under subsection 1, either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

(3) Where an applicant or licensee appeals to the Board ^{Disposal of appeal} under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director.

(4) Notwithstanding that an applicant or licensee has ^{Effect of decision pending disposal of appeal} appealed under this section from a decision of the Director, unless the Director otherwise directs, the decision of the Director is effective until the appeal is disposed of.

10.—(1) The Director, the appellant and such other ^{Parties} persons as the Board may specify are parties to the proceedings before the Board under this Act.

Members making decision not to have taken part in investigation, etc.

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

(4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

1971, c. 47

Only members at hearing to participate in decision

(5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all persons so present participate in the decision.

Appeal to court

11.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Supreme Court in accordance with the rules of Court.

Minister entitled to be heard

(2) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Record to be filed in court

(3) The chairman of the Board shall certify to the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.

Powers of court on appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the Director to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Director or the Board.

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of.

Effect of
decision of
Board,
pending
disposal of
appeal

12.—(1) For the purposes of this Act, the Minister may appoint a Director and one or more inspectors.

Appointment
of Director
and
inspectors

(2) For the purposes of carrying out his duties under this Act, an inspector may at any time between sunrise and sunset enter any premises or building other than a dwelling house, but nothing in this section affects the issuance and execution of a warrant under section 16 of *The Summary Convictions Act*.

Powers of
inspector

R.S.O. 1970,
c. 450

(3) The production by an inspector of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature or authority of the Minister.

Certificate of
appointment

13. No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information or refuse to furnish him with information.

Obstruction

14. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$25 and for a subsequent offence to a fine of not more than \$100.

Offence

15. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) providing for the manner of issuing licences and prescribing their duration, the fees payable therefor and the terms and conditions on which they are issued;
- (b) prescribing grounds for refusal to renew, suspension or revocation of licences in addition to the grounds mentioned in section 5;
- (c) establishing classes of machine operators and prescribing the qualifications for each class and the duties that may be performed by each class;
- (d) providing for courses of instruction and examinations and requiring licence holders or applicants for a licence under this Act to attend such courses and pass such examinations;

- (e) prescribing the facilities and equipment to be provided by persons engaged in the business of installing drainage works;
- (f) prescribing standards and procedures for the installation of drainage works;
- (g) prescribing performance standards for machines used in installing drainage works;
- (h) prescribing forms and providing for their use;
- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Commence-
ment

16. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

17. This Act may be cited as *The Agricultural Tile Drainage Installation Act, 1972*.

An Act respecting
the Installation of
Agricultural Tile Drainage

1st Reading

April 27th, 1972

2nd Reading

May 2nd, 1972

3rd Reading

May 2nd, 1972

THE HON. W. A. STEWART
Minister of Agriculture and Food

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Weed Control Act

THE HON. W. A. STEWART
Minister of Agriculture and Food

EXPLANATORY NOTES

SECTION 1. Section 1 of the Act is revised in conformity with the following sections of the Bill.

An Act to amend The Weed Control Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Weed Control Act*, being chapter 493 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 50, section 87, subsection 1, is repealed and the following substituted therefor:

1. In this Act,

Interpre-
tation

- (a) "area weed inspector" means a person appointed under section 6 to enforce this Act;
- (b) "chief inspector" means the chief inspector appointed under this Act;
- (c) "Director" means the Director appointed under this Act;
- (d) "district weed inspector" means a district weed inspector appointed under this Act;
- (e) "inspector" means an area weed inspector, district weed inspector or municipal weed inspector;
- (f) "Minister" means the Minister of Agriculture and Food;
- (g) "municipal weed inspector" means a person appointed under section 8 to enforce this Act;
- (h) "noxious weed" means a plant that is designated under this Act as a noxious weed;
- (i) "owner" means the person shown as the owner of property on the last revised assessment roll

of the municipality in which the property is located;

(j) "regulations" means the regulations made under this Act;

(k) "weed seed" means the seed of a noxious weed.

s. 4 (2),
repealed

2. Subsection 2 of section 4 of the said Act is repealed.

s. 5 (2),
repealed

3. Subsection 2 of section 5 of the said Act is repealed.

ss. 6, 7, 8,
re-enacted

4. Sections 6, 7 and 8 of the said Act are repealed and the following substituted therefor:

Appointment
of inspectors
in counties
and regional
municipalities

6.—(1) The council of every county and regional municipality shall by by-law appoint one or more persons as area weed inspectors to enforce this Act in the area within its jurisdiction and fix their remuneration or other compensation.

Division of
municipality
into areas

(2) Any such council may divide the municipality into areas and appoint one or more area weed inspectors for each area.

Failure
to appoint
inspectors

(3) Where a council fails to appoint an area weed inspector under subsection 1, the Minister may appoint the area weed inspector and fix his remuneration or other compensation and shall notify the council of the appointment in writing and the treasurer of the municipality shall pay the remuneration or other compensation so fixed.

Clerk to
report
inspectors

7.—(1) The clerk of each county and regional municipality shall, before the 1st day of April in each year, state in writing to the chief inspector the name and address of every area weed inspector for the municipality under this Act and the area for which each area weed inspector is appointed.

Idem

(2) Where the council of a county or regional municipality passes a by-law under this Act on or after the 1st day of April, the clerk shall within seven days after the passing of the by-law state in writing to the chief inspector the name and address of every area weed inspector appointed and the area for which the appointment is made.

Idem

(3) Where any area weed inspector resigns or the council revokes his appointment, the clerk of the municipality

SECTION 2. The subsection requires a person in possession of land abutting a natural body of water to destroy all noxious weeds growing next to the water.

SECTION 3. The subsection provides for the withholding of moneys otherwise payable out of the Consolidated Revenue Fund to a road authority that does not destroy noxious weeds on land under its jurisdiction.

SECTION 4. The new sections 6, 7 and 8 require the appointment of area weed inspectors by the councils of counties and regional municipalities and provide for the appointment of municipal weed inspectors by the councils of other municipalities. The new section 8 also provides for the designation of local weeds by by-laws passed by the councils of municipalities, subject to the approval of the Minister. Subsection 4 of the new section 8 provides that a local weed so designated is deemed to be a noxious weed within the area to which the by-law applies.

SECTION 5. Section 14 of the Act is amended to ensure that area weed inspectors may only be compelled to act where a municipality does not have a municipal weed inspector.

shall within seven days of the resignation or revocation, as the case may be, state the particulars thereof in writing to the chief inspector.

- 8.—(1) The council of any municipality not referred to ^{Appointment of inspectors in cities, etc.} in subsection 1 of section 6 may by by-law appoint one or more persons as municipal weed inspectors to enforce this Act in the area within its jurisdiction and fix their remuneration or other compensation.
- (2) Where persons are appointed as municipal weed in- ^{Co-operation with area weed inspector} spectors under subsection 1, they shall carry out their duties in co-operation with the area weed inspector and the area weed inspector may, when he considers it necessary, exercise all the powers of an inspector under this Act in that municipality.
- (3) Where the council of a municipality has appointed a ^{Designation of local weed by municipal by-law} municipal weed inspector under subsection 1, it may by by-law designate any plant that is not a noxious weed as a local weed in respect of the whole or any part of the municipality.
- (4) For the purposes of this Act, a plant that is designated ^{Effect of designation} as a local weed under subsection 3 shall be deemed to be a noxious weed within the area to which the by-law applies.
- (5) A by-law passed under subsection 3 does not take ^{Approval of by-laws} effect until it is approved by the Minister.

5. Section 14 of the said Act is amended by striking out ^{s. 14, amended} "inspectors or the county" in the fourth line and inserting in lieu thereof "municipal weed inspectors or, where there are no municipal weed inspectors, the area" and by striking out "*The Assessment Act*" in the fifteenth line and inserting in lieu thereof "*The Municipal Act*", so that the section shall read as follows:

14. Notwithstanding any other provision of this Act, the ^{Destruction of weeds in subdivided areas} council of any city, town, village or township, after publication of notice thereof in a newspaper having general circulation in the municipality, may direct any of its municipal weed inspectors or, where there are no municipal weed inspectors, the area weed inspector to cause the noxious weeds or weed seeds on any subdivided portions of the municipality, and lots not exceeding ten acres, whether or not the lots are part of a subdivision, to be destroyed in the manner prescribed in the regulations, and the in-

spector shall report to the clerk of the municipality the amount of the expenses incurred by him in the discharge of his duties under this section with respect to each parcel of land concerned and the clerk shall place on the collector's roll of the municipality the amounts so expended against the respective parcels concerned and such amounts shall be collected in the same manner as taxes under *The Municipal Act*, subject to an appeal to the Assessment Review Court, in the same manner as for taxes under section 76 of *The Assessment Act*.

R.S.O. 1970,
cc. 284, 32

s. 19,
re-enacted

6.—(1) Section 19 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 87, subsection 4, is repealed and the following substituted therefor:

Exception

19. Sections 4, 11, 14 and 15 do not apply to noxious weeds or weed seeds that are so far distant from any place used for agricultural or horticultural purposes that the noxious weeds or weed seeds can have no material effect on the agricultural or horticultural use of such place.

ss. 19a-19h,
repealed

(2) Sections 19a to 19h of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 87, subsection 4, are repealed.

s. 20 (1),
re-enacted

7. Subsection 1 of section 20 of the said Act is repealed and the following substituted therefor:

Offence

(1) Every person who contravenes any of the provisions of this Act or of the regulations, or of any order made under this Act, is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$50 and for a second or subsequent offence to a fine of not less than \$50 and not more than \$100.

s. 21 (a),
re-enacted

8.—(1) Clause a of section 21 of the said Act is repealed and the following substituted therefor:

(a) designating plants as noxious weeds.

s. 21 (e, f),
repealed

(2) Clauses e and f of the said section 21 are repealed.

s. 21 (g),
re-enacted

(3) Clause g of the said section 21 is repealed and the following substituted therefor:

(g) providing for the reimbursement of counties, regional municipalities and municipalities in territorial districts by the Province of Ontario for any part of the

SECTION 6. Sections 19 to 19~~h~~ of the Act, providing for the licensing of seed cleaning plants, are repealed. The new section 19 provides that the provisions of the Act relating to the destruction of growing weeds do not apply where the weeds will not materially affect the agricultural or horticultural use of land.

SECTION 7. The maximum fine for a first offence and the minimum fine for a second or subsequent offence are increased from \$25 to \$50.

SECTION 8.—Subsection 1. The amendment is complementary to the new section 8. The designation of plants as local weeds will be by municipal by-law rather than by regulation as presently provided.

Subsection 2. Clauses *e* and *f* of section 21 related to the licensing of seed cleaning plants. The revocation of these clauses is complementary to the revocation of sections 19 to 19~~h~~ that deal with these plants.

Subsection 3. Clause *g* of section 21 is amended to provide for the reimbursement of municipalities in territorial districts and of those municipalities required to appoint inspectors under section 6 and to provide for limits for such reimbursement.

moneys expended under this Act and prescribing limits on amounts reimbursed.

9. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation. <sup>Commence-
ment</sup>

10. This Act may be cited as *The Weed Control Amendment Act, 1972*. ^{Short title}

An Act to amend
The Weed Control Act

1st Reading

April 27th, 1972

2nd Reading

3rd Reading

THE HON. W. A. STEWART
Minister of Agriculture and Food

(Government Bill)

BILL 95

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Weed Control Act

THE HON. W. A. STEWART
Minister of Agriculture and Food

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

An Act to amend The Weed Control Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Weed Control Act*, being chapter 493 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 50, section 87, subsection 1, is repealed and the following substituted therefor:

1. In this Act,

Interpre-
tation

- (a) "area weed inspector" means a person appointed under section 6 to enforce this Act;
- (b) "chief inspector" means the chief inspector appointed under this Act;
- (c) "Director" means the Director appointed under this Act;
- (d) "district weed inspector" means a district weed inspector appointed under this Act;
- (e) "inspector" means an area weed inspector, district weed inspector or municipal weed inspector;
- (f) "Minister" means the Minister of Agriculture and Food;
- (g) "municipal weed inspector" means a person appointed under section 8 to enforce this Act;
- (h) "noxious weed" means a plant that is designated under this Act as a noxious weed;
- (i) "owner" means the person shown as the owner of property on the last revised assessment roll

of the municipality in which the property is located;

(j) "regulations" means the regulations made under this Act;

(k) "weed seed" means the seed of a noxious weed.

s. 4 (2),
repealed

2. Subsection 2 of section 4 of the said Act is repealed.

s. 5 (2),
repealed

3. Subsection 2 of section 5 of the said Act is repealed.

ss. 6, 7, 8,
re-enacted

4. Sections 6, 7 and 8 of the said Act are repealed and the following substituted therefor:

Appointment
of inspectors
in counties
and regional
municipalities

6.—(1) The council of every county and regional municipality shall by by-law appoint one or more persons as area weed inspectors to enforce this Act in the area within its jurisdiction and fix their remuneration or other compensation.

Division of
municipality
into areas

(2) Any such council may divide the municipality into areas and appoint one or more area weed inspectors for each area.

Failure
to appoint
inspectors

(3) Where a council fails to appoint an area weed inspector under subsection 1, the Minister may appoint the area weed inspector and fix his remuneration or other compensation and shall notify the council of the appointment in writing and the treasurer of the municipality shall pay the remuneration or other compensation so fixed.

Clerk to
report
inspectors

7.—(1) The clerk of each county and regional municipality shall, before the 1st day of April in each year, state in writing to the chief inspector the name and address of every area weed inspector for the municipality under this Act and the area for which each area weed inspector is appointed.

Idem

(2) Where the council of a county or regional municipality passes a by-law under this Act on or after the 1st day of April, the clerk shall within seven days after the passing of the by-law state in writing to the chief inspector the name and address of every area weed inspector appointed and the area for which the appointment is made.

Idem

(3) Where any area weed inspector resigns or the council revokes his appointment, the clerk of the municipality

shall within seven days of the resignation or revocation, as the case may be, state the particulars thereof in writing to the chief inspector.

- 8.—(1) The council of any municipality not referred to in subsection 1 of section 6 may by by-law appoint one or more persons as municipal weed inspectors to enforce this Act in the area within its jurisdiction and fix their remuneration or other compensation. Appointment of inspectors in cities, etc.
- (2) Where persons are appointed as municipal weed inspectors under subsection 1, they shall carry out their duties in co-operation with the area weed inspector and the area weed inspector may, when he considers it necessary, exercise all the powers of an inspector under this Act in that municipality. Co-operation with area weed inspector
- (3) Where the council of a municipality has appointed a municipal weed inspector under subsection 1, it may by by-law designate any plant that is not a noxious weed as a local weed in respect of the whole or any part of the municipality. Designation of local weed by municipal by-law
- (4) For the purposes of this Act, a plant that is designated as a local weed under subsection 3 shall be deemed to be a noxious weed within the area to which the by-law applies. Effect of designation
- (5) A by-law passed under subsection 3 does not take effect until it is approved by the Minister. Approval of by-laws

5. Section 14 of the said Act is amended by striking out "inspectors or the county" in the fourth line and inserting in lieu thereof "municipal weed inspectors or, where there are no municipal weed inspectors, the area" and by striking out "*The Assessment Act*" in the fifteenth line and inserting in lieu thereof "*The Municipal Act*", so that the section shall read as follows: s. 14, amended

14. Notwithstanding any other provision of this Act, the council of any city, town, village or township, after publication of notice thereof in a newspaper having general circulation in the municipality, may direct any of its municipal weed inspectors or, where there are no municipal weed inspectors, the area weed inspector to cause the noxious weeds or weed seeds on any subdivided portions of the municipality, and lots not exceeding ten acres, whether or not the lots are part of a subdivision, to be destroyed in the manner prescribed in the regulations, and the in- Destruction of weeds in subdivided areas

spector shall report to the clerk of the municipality the amount of the expenses incurred by him in the discharge of his duties under this section with respect to each parcel of land concerned and the clerk shall place on the collector's roll of the municipality the amounts so expended against the respective parcels concerned and such amounts shall be collected in the same manner as taxes under *The Municipal Act*, subject to an appeal to the Assessment Review Court, in the same manner as for taxes under section 76 of *The Assessment Act*.

R.S.O. 1970,
cc. 284, 32

s. 19,
re-enacted

6.—(1) Section 19 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 87, subsection 4, is repealed and the following substituted therefor:

Exception

19. Sections 4, 11, 14 and 15 do not apply to noxious weeds or weed seeds that are so far distant from any place used for agricultural or horticultural purposes that the noxious weeds or weed seeds can have no material effect on the agricultural or horticultural use of such place.

ss. 19a-19h,
repealed

(2) Sections 19a to 19h of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 87, subsection 4, are repealed.

s. 20 (1),
re-enacted

7. Subsection 1 of section 20 of the said Act is repealed and the following substituted therefor:

Offence

(1) Every person who contravenes any of the provisions of this Act or of the regulations, or of any order made under this Act, is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$50 and for a second or subsequent offence to a fine of not less than \$50 and not more than \$100.

s. 21 (a),
re-enacted

8.—(1) Clause a of section 21 of the said Act is repealed and the following substituted therefor:

(a) designating plants as noxious weeds.

s. 21 (e, f),
repealed

(2) Clauses e and f of the said section 21 are repealed.

s. 21 (g),
re-enacted

(3) Clause g of the said section 21 is repealed and the following substituted therefor:

(g) providing for the reimbursement of counties, regional municipalities and municipalities in territorial districts by the Province of Ontario for any part of the

moneys expended under this Act and prescribing limits on amounts reimbursed.

9. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation. ^{Commence-}_{ment}

10. This Act may be cited as *The Weed Control Amendment* ^{Short title}
Act, 1972.

An Act to amend
The Weed Control Act

1st Reading

April 27th, 1972

2nd Reading

May 2nd, 1972

3rd Reading

May 2nd, 1972

THE HON. W. A. STEWART
Minister of Agriculture and Food

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Insurance Act

THE HON. E. WINKLER
Minister of Consumer and Commercial Relations

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The amendment extends the definition of hail insurance to cover crops in the field after they are cut.

Subsection 2. The amendment to the definition of marine insurance is complementary to a Bill to amend *The Marine Insurance Act* extending coverage to voyages solely on inland waters and to incidental air risks.

Subsection 3. Fees for administration costs and other servicing charges are included in the term premium and counted in the computation of premium tax.

BILL 96

1972

An Act to amend The Insurance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 26 of section 1 of *The Insurance Act*, ^{s. 1, par. 26, re-enacted} being chapter 224 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

26. "hail insurance" means insurance against loss of or damage to crops in the field, whether growing or cut, caused by hail.

(2) Paragraph 38 of the said section 1 is repealed and ^{s. 1, par. 38, re-enacted} the following substituted therefor:

38. "marine insurance" means insurance against,

(a) liability arising out of,

(i) bodily injury to or death of a person,
or

(ii) the loss of or damage to properties; or

(b) the loss of or damage to property,

occurring during a voyage or marine adventure at sea or on an inland waterway or during delay incidental thereto, or during transit otherwise than by water incidental to such a voyage or marine adventure.

(3) Paragraph 52 of the said section 1 is repealed and ^{s. 1, par. 52, re-enacted} the following substituted therefor:

52. "premium" means the single or periodical payment under a contract for insurance, and includes dues, assessments, administration or fees paid for the administration or servicing of such contract, and other considerations.

s. 16 (1),
amended

2. Subsection 1 of section 16 of the said Act is amended by inserting after "upon" in the third line "the chief agent of the insurer in Ontario or where no appointment of a chief agent is then in effect, upon", so that the subsection shall read as follows:

Service of
notice or
process on
chief agent

- (1) Where the head office of a licensed insurer is situate out of Ontario, notice or process in any action or proceeding in Ontario may be served upon the chief agent of the insurer in Ontario or where no appointment of a chief agent is then in effect, upon the Superintendent and such service shall be deemed service upon the insurer in the case of a corporation and upon members of the insurer in the case of an unincorporated body or association.

s. 30 (1),
amended

3. Subsection 1 of section 30 of the said Act is amended by adding thereto the following paragraph:

- 3a. If the head office of the insurer is out of Ontario, a power of attorney from the insurer to an agent resident in Ontario.

s. 32a,
enacted

4. The said Act is amended by adding thereto the following section:

Appointment
of chief
agent

- 32a.—(1) Where an insurer makes application for a licence, or a renewal of its licence, and has its head office outside Ontario, the application shall be accompanied by an executed copy of a power of attorney from the insurer to a chief agent resident in Ontario.

Execution
of power of
attorney

- (2) The power of attorney shall be under the seal of the insurer, and shall be signed by the president and secretary or other proper officers of the insurer in the presence of a witness who shall make oath as to its due execution.

Authentica-
tion

- (3) The official positions held by the officers signing the power of attorney shall be verified by an oath of a person cognizant of the fact.

Contents of
power of
attorney

- (4) The power of attorney shall declare at what place in Ontario the chief agency of the corporation is and shall expressly authorize the chief agent to receive service of process in all actions and proceedings against the insurer in Ontario for any liability incurred by the insurer therein, and also to receive from the Superintendent all notices that the law requires to be given, or that it is thought advisable

SECTIONS 2, 3, AND 4. The amendment requires insurers having head offices outside Ontario to appoint a chief agent in Ontario for the purposes of dealing with the Superintendent as attorney for the insurer.

SECTION 5. The age of consent for beneficiaries under a life insurance contract is changed from 21 years to 18.

SECTIONS 6, 7. The amendments recognize 18 years as the age of majority.

SECTION 8. The prohibition against driving while under the influence of liquor or drugs is removed for insurance purposes.

to give, and shall declare that service of process for or in respect of such liability on the chief agent is legal and binding on the insurer.

- (5) The power of attorney may confer upon the chief agent any further or other powers that the insurer considers advisable. Authority conferred
- (6) The production of a copy of the power of attorney certified by the Superintendent is sufficient evidence for all purposes of the power and authority of the person therein named to act on behalf of the insurer in the manner and for the purposes set forth in the certified copy. Effect of copy as evidence
- (7) Where the insurer changes its chief agent in Ontario, it shall, within seven days of the appointment, file with the Superintendent a similar power of attorney, stating the change and containing a similar declaration as to service of process and notices. Changes in chief agent
- (8) After the power of attorney is filed, any process in any action or proceeding against the insurer for liability incurred in Ontario may be validly served on the insurer upon its chief agent, but nothing in this section renders invalid service in any other modes in which the corporation may be lawfully served. Service of process thereafter

5. Clause *b* of section 171 of the said Act is amended by striking out "twenty-one" in the second line and inserting in lieu thereof "eighteen". s. 171 (b), amended

6. Section 176 of the said Act is amended by striking out "twenty-one" in the third line and inserting in lieu thereof "eighteen". s. 176, amended

7. Section 177 of the said Act is repealed. s. 177, repealed

8. Statutory condition 2 in section 205 of the said Act is repealed and the following substituted therefor: s. 205 Stat. cond. 2, re-enacted

Prohibited use by Insured 2.—(1) The insured shall not drive or operate the automobile,

- (a) unless he is for the time being either authorized by law or qualified to drive or operate the automobile; or
- (b) while his licence to drive or operate an automobile is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an automobile; or

- (c) while he is under the age of sixteen years or under such other age as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to him; or
- (d) for any illicit or prohibited trade or transportation; or
- (e) in any race or speed test.

**Prohibited
use by
others**

(2) The insured shall not permit, suffer, allow or connive at the use of the automobile,

- (a) by any person,
 - (i) unless that person is for the time being either authorized by law or qualified to drive or operate the automobile, or
 - (ii) while that person is under the age of sixteen years or under such other age as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to him; or
- (b) by any person who is a member of the household of the insured while his licence to drive or operate an automobile is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an automobile; or
- (c) for any illicit or prohibited trade or transportation; or
- (d) in any race or speed test.

s. 225 (9),
re-enacted

9. Subsection 9 of section 225 of the said Act is repealed and the following substituted therefor:

Defence to
excess limits
claim
relating to
section 217
coverage

- (9) Notwithstanding anything contained therein to the contrary, every contract evidenced by a motor vehicle liability policy shall, for the purposes of this section, be deemed to provide all the types of coverage mentioned in section 217, but the insurer is not liable to a claimant with respect to such coverage in excess of the limits mentioned in section 218.

SECTION 9. The amendment includes gratuitous passengers in the category of third persons in respect of whom there is full coverage.

SECTION 10. The amendments recognize 18 years as the age of majority.

SECTION 11. The form of licence for exchanges is deleted as obsolete. Exchanges are licensed in the same way as insurers.

SECTION 12. The purpose of the amendment is to require farm mutual insurance to be sold through licensed agents.

SECTION 13. The reference to the fee of \$10 for a salesman's licence is deleted and added to the fees prescribed in Schedule A by section 18 of this Bill.

SECTION 14. The amendment extends control over licensing of non-resident brokers and adjusters.

10.—(1) Subsection 1 of section 256 of the said Act is ^{s. 256 (1),} amended by striking out “twenty-one” in the third line and inserting in lieu thereof “eighteen”.

(2) Subsection 2 of the said section 256 is repealed. ^{s. 256 (2),} repealed

11. Subsection 1 of section 331 of the said Act is amended ^{s. 331 (1),} by striking out “in accordance with the form in Schedule C hereto” in the second and third lines.

12. Subsection 15 of section 342 of the said Act is repealed ^{s. 342 (15),} and the following substituted therefor: re-enacted

(15) A member of a duly licensed pension fund association ^{Members of} other than a salaried employee who receives com- ^{insurance} mission, may, without a licence, solicit persons to ^{corporations} become members of said association.

13. Subsection 3 of section 343 of the said Act is amended ^{s. 343 (3),} by striking out “a fee of \$10” in the fourth line and inserting ^{amended} in lieu thereof “the prescribed fee”.

14. Section 353 of the said Act, as amended by the ^{s. 353,} Statutes of Ontario, 1971, chapter 84, section 19, is further ^{amended} amended by adding thereto the following subsections:

(2a) No licence shall be issued to a corporation that carries ^{Prohibition} on business as an insurance agent, broker, or adjuster, ^{on licensing} if the majority of its issued and outstanding shares ^{non-} that entitles the holder to any voting rights are ^{residents} owned beneficially or otherwise by a non-resident of Canada unless such corporation was so licensed on the 27th day of April, 1972.

(2b) For the purpose of this section, non-resident means, ^{Definition} ^{of non-} ^{resident}

(a) an individual who is not ordinarily resident in Canada;

(b) a company incorporated, formed or otherwise organized, elsewhere than in Canada;

(c) a company that is controlled directly or indirectly by non-residents as determined in clause *a* or *b*;

(d) a trust established by a non-resident as defined in clause *a*, *b* or *c*, or a trust in which non-residents, as so defined, have more than 50 per cent of the beneficial interest; or

- (e) a company that is controlled directly or indirectly by a trust mentioned in clause *d*.

Prohibition
of a non-
resident to
amalgamate

- (2c) A corporation that was licensed as an agent, broker or adjuster, on or before the 27th day of April, 1972, and whose issued shares entitling the holders thereof to voting rights were more than 50 per cent owned, as of that date, beneficially or otherwise, by one or more non-residents of Canada is not entitled to continue to hold a licence if it amalgamates, unites, merges, acquires the assets or business of, or acquires the shares of any other licensed agent, broker or adjuster.

s. 356 (3),
re-enacted

- 15.** Subsection 3 of section 356 of the said Act is repealed and the following substituted therefor:

Exceptions

- (3) Nothing in this section affects any payment by way of dividend, bonus, profit or savings that is provided for by the policy, or shall be construed so as to prevent an insurer compensating a *bona fide* salaried employee of its head office or branch office in respect of insurance issued by the employing insurer upon the life of such employee or upon the employee's property or interests in Ontario or so as to require that such employee shall be licensed as an agent under this Act to affect such insurance.

Sched. A,
amended

- 16.** Schedule A to the said Act is amended by adding thereto the following item:

17a. Licences for salesmen 10

Sched. C,
repealed

- 17.** Schedule C to the said Act is repealed.

1971 Act,
amended

- 18.** Section 27 of *The Insurance Amendment Act, 1971*, being chapter 84, is repealed and the following substituted therefor:

Application
of s. 231

- 27.—(1) Sections 14 and 15 apply to all contracts evidenced by motor vehicle liability policies made or renewed after the 1st day of January, 1972, and all contracts evidenced by motor vehicle liability policies that were subsisting on the 1st day of January, 1972, shall be deemed to contain the benefits, limits, terms and conditions set forth in Schedule E as of that date in respect of an accident arising out of the use or operation of an automobile occurring on or after that date.

SECTION 15. The amendment permits casualty insurers to provide their salaried employees with standard insurance coverages at a reduced rate in the form of an additional fringe benefit.

SECTION 16. Complementary to section 13 of this Bill.

SECTION 17. Complementary to section 11 of this Bill.

SECTION 18. The amendment confirms the original intention that the mandatory automobile benefits enacted in 1971 take effect for all contracts on and after the 1st day of January, 1972.

- (2) Nothing in this section shall be applied to affect^{Application} any settlement or payment of a claim that has been made in connection with an accident occurring before the 1st day of January, 1972.

19.—(1) This Act, except sections 8, 9 and 12, comes into^{Commence-} force on the day it receives Royal Assent.^{ment}

- (2) Sections 8, 9 and 12 come into force on a day to be^{Idem} named by the Lieutenant Governor by his proclamation.

20. This Act may be cited as *The Insurance Amendment*^{Short title} Act, 1972.

An Act to amend
The Insurance Act

1st Reading

April 27th, 1972

2nd Reading

3rd Reading

THE HON. E. WINKLER
Minister of Consumer and
Commercial Relations

(Government Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Insurance Act

THE HON. E. WINKLER
Minister of Consumer and Commercial Relations

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The amendment extends the definition of hail insurance to cover crops in the field after they are cut.

Subsection 2. The amendment to the definition of marine insurance is complementary to a Bill to amend *The Marine Insurance Act* extending coverage to voyages solely on inland waters and to incidental air risks.

Subsection 3. Fees for administration costs and other servicing charges are included in the term premium and counted in the computation of premium tax.

BILL 96

1972

An Act to amend The Insurance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 26 of section 1 of *The Insurance Act*, ^{s. 1, par. 26, re-enacted} being chapter 224 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

26. "hail insurance" means insurance against loss of or damage to crops in the field, whether growing or cut, caused by hail.

(2) Paragraph 38 of the said section 1 is repealed and ^{s. 1, par. 38, re-enacted} the following substituted therefor:

38. "marine insurance" means insurance against,

(a) liability arising out of,

(i) bodily injury to or death of a person,
or

(ii) the loss of or damage to properties; or

(b) the loss of or damage to property,

occurring during a voyage or marine adventure at sea or on an inland waterway or during delay incidental thereto, or during transit otherwise than by water incidental to such a voyage or marine adventure.

(3) Paragraph 52 of the said section 1 is repealed and ^{s. 1, par. 52, re-enacted} the following substituted therefor:

52. "premium" means the single or periodical payment under a contract for insurance, and includes dues, assessments, administration fees paid for the administration or servicing of such contract, and other considerations.

s. 16 (1),
amended

2. Subsection 1 of section 16 of the said Act is amended by inserting after "upon" in the third line "the chief agent of the insurer in Ontario or where no appointment of a chief agent is then in effect, upon", so that the subsection shall read as follows:

Service of
notice or
process on
chief agent

- (1) Where the head office of a licensed insurer is situate out of Ontario, notice or process in any action or proceeding in Ontario may be served upon the chief agent of the insurer in Ontario or where no appointment of a chief agent is then in effect, upon the Superintendent and such service shall be deemed service upon the insurer in the case of a corporation and upon members of the insurer in the case of an unincorporated body or association.

s. 30 (1),
amended

3. Subsection 1 of section 30 of the said Act is amended by adding thereto the following paragraph:

- 3a. If the head office of the insurer is out of Ontario, a power of attorney from the insurer to an agent resident in Ontario.

s. 32a,
enacted

4. The said Act is amended by adding thereto the following section:

Appointment
of chief
agent

- 32a.—(1) Where an insurer makes application for a licence, or a renewal of its licence, and has its head office outside Ontario, the application shall be accompanied by an executed copy of a power of attorney from the insurer to a chief agent resident in Ontario.

Execution
of power of
attorney

- (2) The power of attorney shall be under the seal of the insurer, and shall be signed by the president and secretary or other proper officers of the insurer in the presence of a witness who shall make oath as to its due execution.

Authentica-
tion

- (3) The official positions held by the officers signing the power of attorney shall be verified by an oath of a person cognizant of the fact.

Contents of
power of
attorney

- (4) The power of attorney shall declare at what place in Ontario the chief agency of the corporation is and shall expressly authorize the chief agent to receive service of process in all actions and proceedings against the insurer in Ontario for any liability incurred by the insurer therein, and also to receive from the Superintendent all notices that the law requires to be given, or that it is thought advisable

SECTIONS 2, 3, AND 4. The amendment requires insurers having head offices outside Ontario to appoint a chief agent in Ontario for the purposes of dealing with the Superintendent as attorney for the insurer.

SECTION 5. The age of consent for beneficiaries under a life insurance contract is changed from 21 years to 18.

SECTIONS 6, 7. The amendments recognize 18 years as the age of majority.

SECTION 8. The prohibition against driving while under the influence of liquor or drugs is removed for insurance purposes.

to give, and shall declare that service of process for or in respect of such liability on the chief agent is legal and binding on the insurer.

- (5) The power of attorney may confer upon the chief agent any further or other powers that the insurer considers advisable. Authority conferred
- (6) The production of a copy of the power of attorney certified by the Superintendent is sufficient evidence for all purposes of the power and authority of the person therein named to act on behalf of the insurer in the manner and for the purposes set forth in the certified copy. Effect of copy as evidence
- (7) Where the insurer changes its chief agent in Ontario, it shall, within seven days of the appointment, file with the Superintendent a similar power of attorney, stating the change and containing a similar declaration as to service of process and notices. Changes in chief agent
- (8) After the power of attorney is filed, any process in any action or proceeding against the insurer for liability incurred in Ontario may be validly served on the insurer upon its chief agent, but nothing in this section renders invalid service in any other modes in which the corporation may be lawfully served. Service of process thereafter

5. Clause *b* of section 171 of the said Act is amended by striking out "twenty-one" in the second line and inserting in lieu thereof "eighteen". s. 171 (b), amended

6. Section 176 of the said Act is amended by striking out "twenty-one" in the third line and inserting in lieu thereof "eighteen". s. 176, amended

7. Section 177 of the said Act is repealed. s. 177, repealed

8. Statutory condition 2 in section 205 of the said Act is repealed and the following substituted therefor: s. 205 Stat. cond. 2, re-enacted

**Prohibited
use by
Insured**

2.—(1) The insured shall not drive or operate the automobile,

- (a) unless he is for the time being either authorized by law or qualified to drive or operate the automobile; or
- (b) while his licence to drive or operate an automobile is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an automobile; or

- (c) while he is under the age of sixteen years or under such other age as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to him; or
- (d) for any illicit or prohibited trade or transportation; or
- (e) in any race or speed test.

**Prohibited
use by
others**

(2) The insured shall not permit, suffer, allow or connive at the use of the automobile,

- (a) by any person,
 - (i) unless that person is for the time being either authorized by law or qualified to drive or operate the automobile, or
 - (ii) while that person is under the age of sixteen years or under such other age as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to him; or
- (b) by any person who is a member of the household of the insured while his licence to drive or operate an automobile is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an automobile; or
- (c) for any illicit or prohibited trade or transportation; or
- (d) in any race or speed test.

s. 225 (9),
re-enacted

9. Subsection 9 of section 225 of the said Act is repealed and the following substituted therefor:

**Defence to
excess limits
claim
relating to
section 217
coverage**

- (9) Notwithstanding anything contained therein to the contrary, every contract evidenced by a motor vehicle liability policy shall, for the purposes of this section, be deemed to provide all the types of coverage mentioned in section 217, but the insurer is not liable to a claimant with respect to such coverage in excess of the limits mentioned in section 218.

SECTION 9. The amendment includes gratuitous passengers in the category of third persons in respect of whom there is full coverage.

SECTION 10. The amendments recognize 18 years as the age of majority.

SECTION 11. The form of licence for exchanges is deleted as obsolete. Exchanges are licensed in the same way as insurers.

SECTION 12. The purpose of the amendment is to require farm mutual insurance to be sold through licensed agents.

SECTION 13. The reference to the fee of \$10 for a salesman's licence is deleted and added to the fees prescribed in Schedule A by section 18 of this Bill.

SECTION 14. The amendment extends control over licensing of non-resident brokers and adjusters.

10.—(1) Subsection 1 of section 256 of the said Act is amended by striking out “twenty-one” in the third line and inserting in lieu thereof “eighteen”. s. 256 (1),
amended

(2) Subsection 2 of the said section 256 is repealed. s. 256 (2),
repealed

11. Subsection 1 of section 331 of the said Act is amended by striking out “in accordance with the form in Schedule C hereto” in the second and third lines. s. 331 (1),
amended

12. Subsection 15 of section 342 of the said Act is repealed and the following substituted therefor: s. 342 (15),
re-enacted

- (15) A member of a duly licensed pension fund association, other than a salaried employee who receives commission, may, without a licence, solicit persons to become members of said association. Members of
insurance
corporations

13. Subsection 3 of section 343 of the said Act is amended by striking out “a fee of \$10” in the fourth line and inserting in lieu thereof “the prescribed fee”. s. 343 (3),
amended

14. Section 353 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 84, section 19, is further amended by adding thereto the following subsections: s. 353,
amended

- (2a) No licence shall be issued to a corporation that carries on business as an insurance agent, broker, or adjuster, if the majority of its issued and outstanding shares that entitles the holder to any voting rights are owned beneficially or otherwise by a non-resident of Canada unless such corporation was so licensed on the 27th day of April, 1972. Prohibition
on licensing
non-
residents

- (2b) For the purpose of this section, non-resident means, Definition
of non-
resident

- (a) an individual who is not ordinarily resident in Canada;
- (b) a company incorporated, formed or otherwise organized, elsewhere than in Canada;
- (c) a company that is controlled directly or indirectly by non-residents as determined in clause *a* or *b*;
- (d) a trust established by a non-resident as defined in clause *a*, *b* or *c*, or a trust in which non-residents, as so defined, have more than 50 per cent of the beneficial interest; or

(e) a company that is controlled directly or indirectly by a trust mentioned in clause d.

Prohibition
of a non-
resident to
amalgamate

(2c) A corporation that was licensed as an agent, broker or adjuster, on or before the 27th day of April, 1972, and whose issued shares entitling the holders thereof to voting rights were more than 50 per cent owned, as of that date, beneficially or otherwise, by one or more non-residents of Canada is not entitled to continue to hold a licence if it amalgamates, unites, merges, acquires the assets or business of, or acquires the shares of any other licensed agent, broker or adjuster.

s. 356 (3),
re-enacted

15. Subsection 3 of section 356 of the said Act is repealed and the following substituted therefor:

Exceptions

(3) Nothing in this section affects any payment by way of dividend, bonus, profit or savings that is provided for by the policy, or shall be construed so as to prevent an insurer compensating a *bona fide* salaried employee of its head office or branch office in respect of insurance issued by the employing insurer upon the life of such employee or upon the employee's property or interests in Ontario or so as to require that such employee shall be licensed as an agent under this Act to affect such insurance.

Sched. A,
amended

16. Schedule A to the said Act is amended by adding thereto the following item:

17a. Licences for salesmen 10

Sched. C,
repealed

17. Schedule C to the said Act is repealed.

Sched. E,
amended

18.—(1) Schedule E to the said Act, as enacted by the Statutes of Ontario, 1971, chapter 84, section 26 and amended by O. Reg. 540/71, is further amended by striking out the first paragraph under the heading "Accident Benefits Section" and substituting therefor the following:

The Insurer agrees to pay to or with respect to each insured person as defined in this section who sustains bodily injury or death by an accident arising out of the use or operation of an automobile.

Sched. E,
subs. (2),
amended

(2) Subparagraph 2 of paragraph B of Part 1 of subsection 2 of the said Schedule E, as remade by section 2 of O. Reg. 540/71, is repealed and the following substituted therefor:

SECTION 15. The amendment permits casualty insurers to provide their salaried employees with standard insurance coverages at a reduced rate in the form of an additional fringe benefit.

SECTION 16. Complementary to section 13 of this Bill.

SECTION 17. Complementary to section 11 of this Bill.

 SECTION 18. The section incorporates amendments to Schedule E made by O. Reg. 540/71 under section 95 (3) (aa) of the Act. 

SECTION 19. The amendment confirms the original intention that the mandatory automobile benefits enacted in 1971 take effect for all contracts on and after the 1st day of January, 1972.

- (2) a deceased person whose only surviving dependants are his parents or the parents of his spouse shall be deemed a head of household if such parents, at the date of the accident, were residing in the same dwelling premises as the deceased person and were principally dependent upon him for financial support.

(3) Clause *a* of subparagraph 3 of paragraph B of Part 1 of subsection 2 of the said Schedule E, as remade by section 3 of O. Reg. 540/71, is repealed and the following substituted therefor:

Sched. E,
subs. (2),
amended

- (a) under the age of 21 years and who resides with and is wholly dependent upon the head of the household for financial support; or

(4) Clauses *a* and *b* of subparagraph 3 of subsection 3 of the said Schedule E, as remade by section 4 of O. Reg. 540/71 are repealed and the following substituted therefor:

Sched. E,
subs. (3),
amended

- (a) give written notice of claim to the Insurer by delivery thereof or by sending it by registered mail to the chief agency or head office of the Insurer in the Province, within 30 days from the date of the accident or as soon as practicable thereafter;
- (b) within 90 days from the date of the accident for which the claim is made, or as soon as practicable thereafter, furnish to the Insurer such proof of claim as is reasonably possible in the circumstances of the happening of the accident and the loss occasioned thereby.

(5) Subparagraph 8 of subsection 3 of the said Schedule E, as made by section 5 of O. Reg. 540/71, is repealed and the following substituted therefor:

Sched. E,
subs. (3),
amended

(8) *Limitation on benefit payable*

Where a person is entitled to benefits under more than one contract providing insurance of the type set forth in subsection 2, he or his personal representative or any person claiming through or under him or by virtue of *The Fatal Accidents Act*, may recover only an amount equal to one benefit.

R.S.O. 1970,
c. 164

19. Section 27 of *The Insurance Amendment Act, 1971*, being chapter 84, is repealed and the following substituted therefor:

1971 Act,
amended

Application
of s. 231

27.—(1) Sections 14 and 15 apply to all contracts evidenced by motor vehicle liability policies made or renewed after the 1st day of January, 1972, and all contracts evidenced by motor vehicle liability policies that were subsisting on the 1st day of January, 1972, shall be deemed to contain the benefits, limits, terms and conditions set forth in Schedule E as of that date in respect of an accident arising out of the use or operation of an automobile occurring on or after that date.

Application

(2) Nothing in this section shall be applied to affect any settlement or payment of a claim that has been made in connection with an accident occurring before the 1st day of January, 1972.

Commence-
ment

20.—(1) This Act, except sections 8, 9, 12 and 18, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 8, 9 and 12 come into force on a day to be named by the Lieutenant Governor by his proclamation.

Idem

(3) Section 18 shall be deemed to have come into force on the 28th day of July, 1971.

Short title

21. This Act may be cited as *The Insurance Amendment Act, 1972*.

An Act to amend
The Insurance Act

1st Reading

April 27th, 1972

2nd Reading

May 2nd, 1972

3rd Reading

THE HON. E. WINKLER
Minister of Consumer and
Commercial Relations

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 96

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Insurance Act

THE HON. E. WINKLER
Minister of Consumer and Commercial Relations

UNITED STATES DEPARTMENT OF AGRICULTURE
BUREAU OF PLANT INDUSTRY

ANALYSIS OF THE SAMPLE

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ANALYSIS OF THE SAMPLE

An Act to amend The Insurance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 26 of section 1 of *The Insurance Act*, ^{s. 1, par. 26, re-enacted} being chapter 224 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

26. “hail insurance” means insurance against loss of or damage to crops in the field, whether growing or cut, caused by hail.

(2) Paragraph 38 of the said section 1 is repealed and ^{s. 1, par. 38, re-enacted} the following substituted therefor:

38. “marine insurance” means insurance against,

(a) liability arising out of,

(i) bodily injury to or death of a person,
or

(ii) the loss of or damage to properties; or

(b) the loss of or damage to property,

occurring during a voyage or marine adventure at sea or on an inland waterway or during delay incidental thereto, or during transit otherwise than by water incidental to such a voyage or marine adventure.

(3) Paragraph 52 of the said section 1 is repealed and ^{s. 1, par. 52, re-enacted} the following substituted therefor:

52. “premium” means the single or periodical payment under a contract for insurance, and includes dues, assessments, administration fees paid for the administration or servicing of such contract, and other considerations.

s. 16 (1),
amended

2. Subsection 1 of section 16 of the said Act is amended by inserting after "upon" in the third line "the chief agent of the insurer in Ontario or where no appointment of a chief agent is then in effect, upon", so that the subsection shall read as follows:

Service of
notice or
process on
chief agent

- (1) Where the head office of a licensed insurer is situate out of Ontario, notice or process in any action or proceeding in Ontario may be served upon the chief agent of the insurer in Ontario or where no appointment of a chief agent is then in effect, upon the Superintendent and such service shall be deemed service upon the insurer in the case of a corporation and upon members of the insurer in the case of an unincorporated body or association.

s. 30 (1),
amended

3. Subsection 1 of section 30 of the said Act is amended by adding thereto the following paragraph:

- 3a. If the head office of the insurer is out of Ontario, a power of attorney from the insurer to an agent resident in Ontario.

s. 32a,
enacted

4. The said Act is amended by adding thereto the following section:

Appointment
of chief
agent

- 32a.—(1) Where an insurer makes application for a licence, or a renewal of its licence, and has its head office outside Ontario, the application shall be accompanied by an executed copy of a power of attorney from the insurer to a chief agent resident in Ontario.

Execution
of power of
attorney

- (2) The power of attorney shall be under the seal of the insurer, and shall be signed by the president and secretary or other proper officers of the insurer in the presence of a witness who shall make oath as to its due execution.

Authentica-
tion

- (3) The official positions held by the officers signing the power of attorney shall be verified by an oath of a person cognizant of the fact.

Contents of
power of
attorney

- (4) The power of attorney shall declare at what place in Ontario the chief agency of the corporation is and shall expressly authorize the chief agent to receive service of process in all actions and proceedings against the insurer in Ontario for any liability incurred by the insurer therein, and also to receive from the Superintendent all notices that the law requires to be given, or that it is thought advisable

to give, and shall declare that service of process for or in respect of such liability on the chief agent is legal and binding on the insurer.

- (5) The power of attorney may confer upon the chief agent any further or other powers that the insurer considers advisable. Authority conferred
- (6) The production of a copy of the power of attorney certified by the Superintendent is sufficient evidence for all purposes of the power and authority of the person therein named to act on behalf of the insurer in the manner and for the purposes set forth in the certified copy. Effect of copy as evidence
- (7) Where the insurer changes its chief agent in Ontario, it shall, within seven days of the appointment, file with the Superintendent a similar power of attorney, stating the change and containing a similar declaration as to service of process and notices. Changes in chief agent
- (8) After the power of attorney is filed, any process in any action or proceeding against the insurer for liability incurred in Ontario may be validly served on the insurer upon its chief agent, but nothing in this section renders invalid service in any other modes in which the corporation may be lawfully served. Service of process thereafter

5. Clause *b* of section 171 of the said Act is amended by striking out "twenty-one" in the second line and inserting in lieu thereof "eighteen". s. 171 (b), amended

6. Section 176 of the said Act is amended by striking out "twenty-one" in the third line and inserting in lieu thereof "eighteen". s. 176, amended

7. Section 177 of the said Act is repealed. s. 177, repealed

8. Statutory condition 2 in section 205 of the said Act is repealed and the following substituted therefor: s. 205 Stat. cond. 2, re-enacted

Prohibited use by Insured 2.—(1) The insured shall not drive or operate the automobile,

- (a) unless he is for the time being either authorized by law or qualified to drive or operate the automobile; or
- (b) while his licence to drive or operate an automobile is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an automobile; or

- (c) while he is under the age of sixteen years or under such other age as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to him; or
- (d) for any illicit or prohibited trade or transportation; or
- (e) in any race or speed test.

**Prohibited
use by
others**

(2) The insured shall not permit, suffer, allow or connive at the use of the automobile,

- (a) by any person,
 - (i) unless that person is for the time being either authorized by law or qualified to drive or operate the automobile, or
 - (ii) while that person is under the age of sixteen years or under such other age as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to him; or
- (b) by any person who is a member of the household of the insured while his licence to drive or operate an automobile is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an automobile; or
- (c) for any illicit or prohibited trade or transportation; or
- (d) in any race or speed test.

s. 225 (9),
re-enacted

9. Subsection 9 of section 225 of the said Act is repealed and the following substituted therefor:

Defence to
excess limits
claim
relating to
section 217
coverage

- (9) Notwithstanding anything contained therein to the contrary, every contract evidenced by a motor vehicle liability policy shall, for the purposes of this section, be deemed to provide all the types of coverage mentioned in section 217, but the insurer is not liable to a claimant with respect to such coverage in excess of the limits mentioned in section 218.

10.—(1) Subsection 1 of section 256 of the said Act is ^{s. 256 (1),} amended by striking out “twenty-one” in the third line and inserting in lieu thereof “eighteen”.

(2) Subsection 2 of the said section 256 is repealed. ^{s. 256 (2),} repealed

11. Subsection 1 of section 331 of the said Act is amended ^{s. 331 (1),} by striking out “in accordance with the form in Schedule C hereto” in the second and third lines.

12. Subsection 15 of section 342 of the said Act is repealed ^{s. 342 (15),} and the following substituted therefor: ^{re-enacted}

(15) A member of a duly licensed pension fund association, ^{Members of insurance} other than a salaried employee who receives com- ^{corporations} mission, may, without a licence, solicit persons to become members of said association.

13. Subsection 3 of section 343 of the said Act is amended ^{s. 343 (3),} by striking out “a fee of \$10” in the fourth line and inserting ^{amended} in lieu thereof “the prescribed fee”.

14. Section 353 of the said Act, as amended by the ^{s. 353,} Statutes of Ontario, 1971, chapter 84, section 19, is further ^{amended} amended by adding thereto the following subsections:

(2a) No licence shall be issued to a corporation that carries ^{Prohibition} on business as an insurance agent, broker, or adjuster, ^{on licensing} if the majority of its issued and outstanding shares ^{non-} that entitles the holder to any voting rights are ^{residents} owned beneficially or otherwise by a non-resident of Canada unless such corporation was so licensed on the 27th day of April, 1972.

(2b) For the purpose of this section, non-resident means, ^{Definition} of non- ^{resident}

(a) an individual who is not ordinarily resident in Canada;

(b) a company incorporated, formed or otherwise organized, elsewhere than in Canada;

(c) a company that is controlled directly or indirectly by non-residents as determined in clause a or b;

(d) a trust established by a non-resident as defined in clause a, b or c, or a trust in which non-residents, as so defined, have more than 50 per cent of the beneficial interest; or

(e) a company that is controlled directly or indirectly by a trust mentioned in clause d.

Prohibition
of a non-
resident to
amalgamate

- (2c) A corporation that was licensed as an agent, broker or adjuster, on or before the 27th day of April, 1972, and whose issued shares entitling the holders thereof to voting rights were more than 50 per cent owned, as of that date, beneficially or otherwise, by one or more non-residents of Canada is not entitled to continue to hold a licence if it amalgamates, unites, merges, acquires the assets or business of, or acquires the shares of any other licensed agent, broker or adjuster.

s. 356 (3),
re-enacted

15. Subsection 3 of section 356 of the said Act is repealed and the following substituted therefor:

Exceptions

- (3) Nothing in this section affects any payment by way of dividend, bonus, profit or savings that is provided for by the policy, or shall be construed so as to prevent an insurer compensating a *bona fide* salaried employee of its head office or branch office in respect of insurance issued by the employing insurer upon the life of such employee or upon the employee's property or interests in Ontario or so as to require that such employee shall be licensed as an agent under this Act to affect such insurance.

Sched. A,
amended

16. Schedule A to the said Act is amended by adding thereto the following item:

17a. Licences for salesmen 10

Sched. C,
repealed

17. Schedule C to the said Act is repealed.

Sched. E,
amended

18.—(1) Schedule E to the said Act, as enacted by the Statutes of Ontario, 1971, chapter 84, section 26 and amended by O. Reg. 540/71, is further amended by striking out the first paragraph under the heading "Accident Benefits Section" and substituting therefor the following:

The Insurer agrees to pay to or with respect to each insured person as defined in this section who sustains bodily injury or death by an accident arising out of the use or operation of an automobile.

Sched. E,
subs. (2),
amended

(2) Subparagraph 2 of paragraph B of Part 1 of subsection 2 of the said Schedule E, as remade by section 2 of O. Reg. 540/71, is repealed and the following substituted therefor:

- (2) a deceased person whose only surviving dependants are his parents or the parents of his spouse shall be deemed a head of household if such parents, at the date of the accident, were residing in the same dwelling premises as the deceased person and were principally dependent upon him for financial support.

(3) Clause *a* of subparagraph 3 of paragraph B of Part 1 of subsection 2 of the said Schedule E, as remade by section 3 of ^{Sched. E, subs. (2), amended} O. Reg. 540/71, is repealed and the following substituted therefor:

- (a) under the age of 21 years and who resides with and is wholly dependent upon the head of the household for financial support; or

(4) Clauses *a* and *b* of subparagraph 3 of subsection 3 of the said Schedule E, as remade by section 4 of O. Reg. 540/71 ^{Sched. E, subs. (3), amended} are repealed and the following substituted therefor:

- (a) give written notice of claim to the Insurer by delivery thereof or by sending it by registered mail to the chief agency or head office of the Insurer in the Province, within 30 days from the date of the accident or as soon as practicable thereafter;
- (b) within 90 days from the date of the accident for which the claim is made, or as soon as practicable thereafter, furnish to the Insurer such proof of claim as is reasonably possible in the circumstances of the happening of the accident and the loss occasioned thereby.

(5) Subparagraph 8 of subsection 3 of the said Schedule E, ^{Sched. E, subs. (3), amended} as made by section 5 of O. Reg. 540/71, is repealed and the following substituted therefor:

(8) *Limitation on benefit payable*

Where a person is entitled to benefits under more than one contract providing insurance of the type set forth in subsection 2, he or his personal representative or any person claiming through or under him or by virtue of *The Fatal Accidents Act*, ^{R.S.O. 1970, c. 164} may recover only an amount equal to one benefit.

19. Section 27 of *The Insurance Amendment Act, 1971*, ^{1971 Act, amended} being chapter 84, is repealed and the following substituted therefor:

Application
of s. 231

27.—(1) Sections 14 and 15 apply to all contracts evidenced by motor vehicle liability policies made or renewed after the 1st day of January, 1972, and all contracts evidenced by motor vehicle liability policies that were subsisting on the 1st day of January, 1972, shall be deemed to contain the benefits, limits, terms and conditions set forth in Schedule E as of that date in respect of an accident arising out of the use or operation of an automobile occurring on or after that date.

Application

(2) Nothing in this section shall be applied to affect any settlement or payment of a claim that has been made in connection with an accident occurring before the 1st day of January, 1972.

Commence-
ment

20.—(1) This Act, except sections 8, 9, 12 and 19, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 8, 9 and 12 come into force on a day to be named by the Lieutenant Governor by his proclamation.

Idem

(3) Section 19 shall be deemed to have come into force on the 28th day of July, 1971.

Short title

21. This Act may be cited as *The Insurance Amendment Act, 1972*.

An Act to amend
The Insurance Act

1st Reading

April 27th, 1972

2nd Reading

May 2nd, 1972

3rd Reading

June 21st, 1972

THE HON. E. WINKLER
Minister of Consumer and
Commercial Relations

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Marine Insurance Act

THE HON. E. WINKLER
Minister of Consumer and Commercial Relations

EXPLANATORY NOTE

The Bill authorizes the writing of marine insurance on maritime risks on inland waterways. At the present, such marine insurance is authorized only if the voyage is an extension of a sea voyage. The amendment also authorizes insurance of air risks incidental to sea or inland waterway voyages.

BILL 97

1972

An Act to amend The Marine Insurance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 3 of *The Marine Insurance Act*, ^{s. 3 (1), re-enacted} being chapter 260 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

- (1) A contract of marine insurance may, by its express ^{Mixed sea, land and air risks} terms or usage of the trade, be written so as to protect the assured against losses on inland waters, or may be extended so as to protect the assured against losses on any land or air risk that may be incidental to any sea or inland water voyage.

2. This Act comes into force on the day it receives Royal ^{Commence-} Assent. ^{ment}

3. This Act may be cited as *The Marine Insurance Amend-* ^{Short title} *ment Act, 1972.*

An Act to amend
The Marine Insurance Act

1st Reading

April 27th, 1972

2nd Reading

3rd Reading

THE HON. E. WINKLER
Minister of Consumer
and Commercial Relations

(Government Bill)

BILL 97

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Marine Insurance Act

THE HON. E. WINKLER
Minister of Consumer and Commercial Relations

BILL 97

1972

An Act to amend The Marine Insurance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 3 of *The Marine Insurance Act*, ^{s. 3 (1),} ^{re-enacted} being chapter 260 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

- (1) A contract of marine insurance may, by its express terms or usage of the trade, be written so as to ^{Mixed sea, land and air risks} protect the assured against losses on inland waters, or may be extended so as to protect the assured against losses on any land or air risk that may be incidental to any sea or inland water voyage.

2. This Act comes into force on the day it receives Royal ^{Commence-} Assent. ^{ment}

3. This Act may be cited as *The Marine Insurance Amend-* ^{Short title} *ment Act, 1972.*

An Act to amend
The Marine Insurance Act

1st Reading

April 27th, 1972

2nd Reading

May 2nd, 1972

3rd Reading

May 2nd, 1972

THE HON. E. WINKLER
Minister of Consumer
and Commercial Relations

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Judicature Act

THE HON. D. A. BALES
Attorney General

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

EXPLANATORY NOTE

The amendment removes doubt that the provision for appeals to the Divisional Court from a master includes appeals from local masters and local judges.

BILL 98

1972

An Act to amend The Judicature Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *f* of subsection 1 of section 17 of *The Judicature Act*, ^{s. 17 (1) (*f*), re-enacted} being chapter 228 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1971, chapter 57, section 1, is repealed and the following substituted therefor:

(*f*) all appeals from final judgments or orders of the master, local judge, local master, or other officer of the Supreme Court, except final judgments or orders made by a local judge under the *Divorce Act* ^{R.S.C. 1970, c. D-8} (Canada).

2. This Act shall be deemed to have come into force on the 17th day of April, 1972. <sup>Commence-
ment</sup>

3. This Act may be cited as *The Judicature Amendment Act*, 1972. ^{Short title}

An Act to amend
The Judicature Act

1st Reading

April 28th, 1972

2nd Reading

3rd Reading

THE HON. D. A. BALES
Attorney General

(Government Bill)

BILL 98

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Judicature Act

THE HON. D. A. BALES
Attorney General

BILL 98

1972

An Act to amend The Judicature Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *f* of subsection 1 of section 17 of *The Judicature Act*, s. 17 (1) (*f*), being chapter 228 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1971, chapter 57, section 1, is repealed and the following substituted therefor:

(*f*) all appeals from final judgments or orders of the master, local judge, local master, or other officer of the Supreme Court, except final judgments or orders made by a local judge under the *Divorce Act* ^{R.S.C. 1970, c. D-8} (Canada).

2. This Act shall be deemed to have come into force on the 17th day of April, 1972. <sup>Commence-
ment</sup>

3. This Act may be cited as *The Judicature Amendment Act*, 1972. ^{Short title}

An Act to amend
The Judicature Act

1st Reading

April 28th, 1972

2nd Reading

May 16th, 1972

3rd Reading

May 16th, 1972

THE HON. D. A. BALES
Attorney General

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Quieting Titles Act

THE HON. D. A. BALES
Attorney General

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

EXPLANATORY NOTE

The amendment changes the reference to masters of titles to read local masters of the Supreme Court and corrects an error made in the 1970 revision of the statutes.

BILL 99

1972

An Act to amend The Quieting Titles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 42 of *The Quieting Titles Act*, being chapter 396 ^{s. 42, re-enacted} of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

42. Every local master of the Supreme Court is local ^{Referees of Titles} referee of titles and, where the proceedings under the petition are to be conducted at Toronto, the Inspector of Titles is Referee of Titles.

2. This Act comes into force on the day it receives Royal ^{Commence-} Assent. ^{ment}

3. This Act may be cited as *The Quieting Titles Amendment* ^{Short title} *Act, 1972.*

An Act to amend
The Quieting Titles Act

1st Reading

April 28th, 1972

2nd Reading

3rd Reading

THE HON. D. A. BALES
Attorney General

(Government Bill)

BILL 99

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Quieting Titles Act

THE HON. D. A. BALES
Attorney General

BILL 99

1972

An Act to amend The Quieting Titles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 42 of *The Quieting Titles Act*, being chapter 396 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: ^{s. 42, re-enacted}

42. Every local master of the Supreme Court is local referee of titles and, where the proceedings under the petition are to be conducted at Toronto, the Inspector of Titles is Referee of Titles. ^{Referees of Titles}

2. This Act comes into force on the day it receives Royal Assent. ^{Commence-ment}

3. This Act may be cited as *The Quieting Titles Amendment Act, 1972*. ^{Short title}

An Act to amend
The Quietting Titles Act

1st Reading

April 28th, 1972

2nd Reading

May 16th, 1972

3rd Reading

May 16th, 1972

THE HON. D. A. BALES
Attorney General

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Matrimonial Causes Act

THE HON. D. A. BALES
Attorney General

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The amendments update the terminology referring to petitions for divorce and the Official Guardian's function is extended to actions for annulment where children are involved.

Subsection 2. At present the Official Guardian is required to attend the trial. The amendment makes attendance compulsory only where the court thinks it necessary, and otherwise the Official Guardian has the right to attend if he thinks it necessary.

Subsections 3 and 4. The Official Guardian's fees are to be prescribed under *The Administration of Justice Act* and both the fees and disbursements are payable by the petitioner or plaintiff and recoverable as costs of the action.

BILL 100

1972

An Act to amend The Matrimonial Causes Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 2 of section 6 of *The Matrimonial Causes Act*, being chapter 265 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: ^{s. 6 (2), re-enacted}

- (2) Where a petition or counter-petition for divorce or the statement of claim in an action for the annulment of a marriage contains particulars of any child of the marriage who, at the time of the commencement of the action, ^{Official Guardian's report}

(a) is under sixteen years of age; or

(b) is sixteen or seventeen years of age and is in full-time attendance at an educational institution or through illness or infirmity is unable to earn a livelihood,

the Official Guardian shall cause an investigation to be made and shall report to the court upon all matters relating to the custody, maintenance and education of the child.

(2) Subsection 5 of the said section 6 is repealed and the following substituted therefor: ^{s. 6 (5), re-enacted}

- (5) Where the facts contained in the report are disputed, the Official Guardian or his agent shall if directed by the court, and may when not so directed, attend the trial on behalf of the child and cause the person making the investigation to attend as a witness. ^{Attendance at trial}

(3) Subsections 7 and 8 of the said section 6 are repealed and the following substituted therefor: ^{s. 6 (7, 8), re-enacted}

Payment of
fees and
disburse-
ments

- (7) The petitioner in a petition for divorce or the plaintiff in an action for annulment shall pay such fees for and disbursements arising from an investigation in respect of the petition or action as are prescribed under *The Administration of Justice Act*.

R.S.O. 1970,
c. 6

Idem

- (8) The Official Guardian shall not file his report to the investigation with the court until such fees and disbursements have been paid unless otherwise directed by the court.

s. 6 (11),
re-enacted

- (4) Subsection 11 of the said section 6 is repealed and the following substituted therefor:

Fees, etc.,
deemed costs
in action

- (11) The fees and disbursements of the Official Guardian payable under subsection 7 shall be deemed to be costs incurred in the action for the purposes of any award as to costs by the judge.

Application
of section

- (5) This section applies in respect of a petition filed or action commenced on or after the 1st day of April, 1972.

Commence-
ment

2. This Act shall be deemed to have come into force on the 1st day of April, 1972.

Short title

3. This Act may be cited as *The Matrimonial Causes Amendment Act, 1972*.

An Act to amend
The Matrimonial Causes Act

1st Reading

April 28th, 1972

2nd Reading

3rd Reading

THE HON. D. A. BALES
Attorney General

(*Government Bill*)

BILL 100

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Matrimonial Causes Act

THE HON. D. A. BALES
Attorney General

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

BILL 100

1972

An Act to amend The Matrimonial Causes Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 2 of section 6 of *The Matrimonial Causes Act*, being chapter 265 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: <sup>s. 6 (2),
re-enacted</sup>

- (2) Where a petition or counter-petition for divorce or the statement of claim in an action for the annulment of a marriage contains particulars of any child of the marriage who, at the time of the commencement of the action, <sup>Official
Guardian's
report</sup>

(a) is under sixteen years of age; or

(b) is sixteen or seventeen years of age and is in full-time attendance at an educational institution or through illness or infirmity is unable to earn a livelihood,

the Official Guardian shall cause an investigation to be made and shall report to the court upon all matters relating to the custody, maintenance and education of the child.

(2) Subsection 5 of the said section 6 is repealed and the following substituted therefor: <sup>s. 6 (5),
re-enacted</sup>

- (5) Where the facts contained in the report are disputed, the Official Guardian or his agent shall if directed by the court, and may when not so directed, attend the trial on behalf of the child and cause the person making the investigation to attend as a witness. <sup>Attendance
at trial</sup>

(3) Subsections 7 and 8 of the said section 6 are repealed and the following substituted therefor: <sup>s. 6 (7, 8),
re-enacted</sup>

**Payment of
fees and
disburse-
ments**

- (7) The petitioner in a petition for divorce or the plaintiff in an action for annulment shall pay such fees for and disbursements arising from an investigation in respect of the petition or action as are prescribed under *The Administration of Justice Act*.

R.S.O. 1970,
c. 6

Idem

- (8) The Official Guardian shall not file his report to the investigation with the court until such fees and disbursements have been paid unless otherwise directed by the court.

s. 6 (11),
re-enacted

- (4) Subsection 11 of the said section 6 is repealed and the following substituted therefor:

**Fees, etc.,
deemed costs
in action**

- (11) The fees and disbursements of the Official Guardian payable under subsection 7 shall be deemed to be costs incurred in the action for the purposes of any award as to costs by the judge.

**Application
of section**

- (5) This section applies in respect of a petition filed or action commenced on or after the 1st day of April, 1972.

**Commence-
ment**

- 2.** This Act shall be deemed to have come into force on the 1st day of April, 1972.

Short title

- 3.** This Act may be cited as *The Matrimonial Causes Amendment Act, 1972*.

An Act to amend
The Matrimonial Causes Act

1st Reading

April 28th, 1972

2nd Reading

May 16th, 1972

3rd Reading

May 16th, 1972

THE HON. D. A. BALES
Attorney General

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to amend
The Regional Municipality of Niagara Act**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

EXPLANATORY NOTES

SECTION 1.—Subsection 1. Subsection 1 of section 3 prescribes the composition of the council of each area municipality; the subsection added permits the Minister to vary the composition of any area municipality council on its request.

Subsection 2. Subsection 2 empowers the Minister to make certain orders in connection with the municipal elections for the years 1973 and 1974.

An Act to amend The Regional Municipality of Niagara Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 3 of *The Regional Municipality of Niagara Act*, being chapter 406 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection:

s. 3,
amended

(1a) Notwithstanding subsection 1, the Minister may, on the request of any area municipality, by order, vary the composition of the council of such area municipality.

Minister
may vary
composition
of council

(2) Subsection 3 of the said section 3 is repealed and the following substituted therefor:

s. 3 (3),
re-enacted

(3) For the purposes of the elections of the councils of the area municipalities for the years 1973 and 1974, the Minister may by order,

Elections
1972

(a) redivide into wards the Town of Lincoln, the Town of Fort Erie, the City of Niagara Falls, the Town of Pelham, the City of Port Colborne, the City of St. Catharines, the City of Welland or the Township of West Lincoln, all as constituted by section 2, and make provision for the respective number of aldermen to be elected in the respective wards;

(b) with respect to the City of Niagara Falls, make provision that only persons whose principal place of residence was continuously from the 1st day of January, 1972 to the date of nomination in such wards are eligible to be elected as aldermen for such wards; and

(c) provide for such other matters as he considers necessary to hold the elections.

s. 3 (5),
repealed

(3) Subsection 5 of the said section 3 is repealed.

s. 27a,
enacted

2. The said Act is amended by adding thereto the following section:

Construction,
etc., of
waterworks
system

27a. The Regional Corporation may pass by-laws for constructing, maintaining, improving, repairing, widening, altering, diverting and stopping up works for the production, treatment and storage of water and trunk distribution mains connected therewith.

s. 28 (6),
re-enacted

3. Subsection 6 of section 28 of the said Act is repealed and the following substituted therefor:

Default

(6) If the Regional Corporation fails to make any payment on or before the due date required by clause *b* of subsection 5, the area municipality may charge the Regional Corporation interest at the rate of 12 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 32 (2),
repealed

4. Subsection 2 of section 32 of the said Act is repealed.

s. 42 (2),
amended

5. Subsection 2 of section 42 of the said Act is amended by striking out "not exceeding one-half of 1 per cent for each month or fraction thereof" in the fourth and fifth lines and inserting in lieu thereof "of 12 per cent per annum, or such lower rate as the Regional Council determines".

s. 50 (6),
re-enacted

6. Subsection 6 of section 50 of the said Act is repealed and the following substituted therefor:

Default

(6) If the Regional Corporation fails to make any payment on or before the due date required by clause *b* of subsection 5, the area municipality may charge the Regional Corporation interest at the rate of 12 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 70 (2),
amended

7. Subsection 2 of section 70 of the said Act is amended by adding at the end thereof "expressed by resolution".

s. 114 (6),
re-enacted

8. Subsection 6 of section 114 of the said Act is repealed and the following substituted therefor:

Default

(6) If the Regional Corporation fails to make any payment on or before the due date required by clause *b* of subsection 5, the area municipality may charge the

Subsection 3. The provisions contained in the repealed subsection are now embodied in subsection 2 of this section.

SECTION 2. The authority of the Regional Corporation to construct, maintain and enlarge water supply facilities is clarified; similar authority presently exists in respect of sewage facilities.

SECTION 3. The permissible interest rate chargeable by an area municipality in respect of overdue payments to it by the Regional Corporation on account of waterworks assumption is doubled.

SECTION 4. The subsection repealed permits the Regional Corporation to continue to fluoridate water supplied to an area where the water was fluoridated prior to January 1st, 1970, as a result of an affirmative vote under *The Fluoridation Act, 1960-61*; a complementary amendment to *The Fluoridation Act* will place the Regional Corporation on the same footing as other municipalities in respect of the fluoridation of water.

SECTION 5. Similar in intent to section 3 of the Bill, in relation to the penalty for late payment for water supplied.

SECTION 6. Similar in intent to section 3 of the Bill, in relation to the penalty for late payment on account of sewage works assumption.

SECTION 7. The subsection amended requires the approval of the Regional Council to the construction of sidewalks, sewers, etc., on a regional road by an area municipality; the words added will permit the approval to be expressed by resolution of the Regional Council.

SECTION 8. Similar in intent to section 3 of the Bill, in relation to the penalty for late payment on account of police buildings assumption.

SECTION 9. The amendment reflects the transfer to the Ministry of Revenue of the assessment functions formerly under the Department of Municipal Affairs.

SECTION 10. The subsections repealed relate to surplus or operating deficits in relation to the year 1970 and are spent; the re-enacted subsection provides for the apportionment of taxes collected on supplementary assessments and the charging back in respect of assessment lost following a reduction on an appeal.

SECTION 11. The amendment is designed to make it clear that the Regional Council may temporarily borrow moneys until other revenues, as well as the levies for the year, are received.

SECTION 12. The authority to obtain temporary advances pending the issue or sale of debentures following Municipal Board approval is extended to area municipality councils as well as the Regional Council, where the debenture issue is for the purposes of the area municipality.

SECTION 13.—Subsection 1. The issue of instalment debentures is authorized; similar authority now exists in *The Municipal Act* for local municipalities having a population of 20,000 or over.

Regional Corporation interest at the rate of 12 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

9. Section 116 of the said Act is amended by adding ^{s. 116, amended} thereto the following subsection:

- (2) In sections 119, 120 and 122 "Department" means the ^{Idem} Ministry of Revenue.

10. Subsections 3 and 4 of section 118 of the said Act ^{s. 118 (3), re-enacted, s. 118 (4), repealed} are repealed and the following substituted therefor:

- (3) Section 43 of *The Assessment Act* and section 606 of *The Municipal Act* apply *mutatis mutandis* to the ^{Application of R.S.O. 1970, cc. 32, 284} Regional Corporation.

11. Subsection 1 of section 130 of the said Act is amended by ^{s. 130 (1), amended} inserting after "levies" in the sixth line "and other revenues".

12. Subsection 2 of section 134 of the said Act is repealed ^{s. 134 (2), re-enacted} and the following substituted therefor:

- (2) When the Municipal Board has authorized the borrow- ^{Idem} ing of money and the issue of debentures by the Regional Corporation for the purposes of an area municipality, the Regional Council or the council of the area municipality pending the issue and sale of the debentures may, and the Regional Council on the request of the area municipality shall, agree with a bank or person for temporary advances from time to time to meet expenditures incurred for the purposes authorized, and the Regional Council may, or on the request of the area municipality shall, pending the sale of such debentures or in lieu of selling them, authorize the chairman and financial officer to raise money by way of loan on the debentures and to hypothecate them for the loan, and shall transfer the proceeds of such advance or loan to the area municipality.

13.—(1) Section 135 of the said Act is amended by adding ^{s. 135, amended} thereto the following subsections:

- (6a) Notwithstanding subsection 5, the Regional Council ^{Instalment debentures and debentures to refund existing debentures at maturity} may by by-law,
- (a) authorize the borrowing of money by the issue of instalment debentures, the last instalment

of which shall mature not earlier than ten years after the date upon which they are issued, and a specified sum of principal payable thereunder in the final year shall be raised by the issue of refunding debentures as provided in clause *b*, and it shall not be necessary to raise by special rate in the year of maturity of the debentures to be refunded an amount equal to the specified principal amount of the debentures which are being refunded ; and

- (*b*) authorize the issue of debentures to refund at maturity outstanding debentures of the municipality, provided that the refunding debentures shall be payable within the maximum period of years that was approved by the order of the Municipal Board for the repayment of debentures issued for the debt for which the outstanding debentures were issued, commencing on the date of the debentures originally issued for such debt,

and any such by-law shall provide that the sums of principal and interest payable under the by-law shall be raised by a special levy or levies against such area municipality or municipalities as may be specified in the by-law and such levy shall be levied against the same area municipality or municipalities in each case.

Levy

- (6*b*) Any special levy against an area municipality imposed by the by-law under the authority of subsection 6*a* may be levied by the area municipality against persons or property in the same manner and subject to the same limitations as if it were passing a by-law authorizing the issue of debentures of the area municipality for the same purpose for the portion of the debt levied against it under subsection 6*a*, and any levy imposed by a by-law under clause *b* of subsection 6*a* shall be levied by the area municipality against the same persons or property as the levy imposed by the related by-law under clause *a* of subsection 6*a* was levied.

**s. 135 (18),
amended**

- (2) Subsection 18 of the said section 135 is amended by adding "or" at the end of clause *c* and by adding thereto the following clause:

- (*d*) subject to the prior approval of the Lieutenant Governor in Council, in a currency other than that of Canada, the United States or Great Britain.

Subsection 2. The amendment permits debentures to be made payable in a currency other than that of Canada, the United States or Great Britain; similar authority now exists in *The Municipal Act* for local municipalities having a population of 75,000 or more.

Subsection 3. The amendment is complementary to subsection 2 of this section.

Subsection 4. The interest rate to be applied in determining the amount of principal to be raised in each year in respect of sinking fund debentures is increased from $3\frac{1}{2}$ per cent per annum to 5 per cent per annum.

Subsection 5. Two of the three members of the sinking fund committee will now be appointed by the Regional Council rather than the Lieutenant Governor in Council, and their remuneration will be in the discretion of the Regional Council.

Subsection 6. The use of a sinking fund surplus to reduce the next annual levy on account of principal and interest of regional or area debentures will not now require Municipal Board approval.

SECTION 14. The reference added is to section 354 (1), paragraph 61, of *The Municipal Act*; the effect is to empower the Regional Corporation to appoint a surveyor and one or more engineers who will have the power to enter on private lands conferred by section 6 of *The Surveys Act*.

(3) Subsection 19 of the said section 135 is amended by <sup>s. 135 (19),
amended</sup> inserting after "Britain" in the third line "or in any currency other than that of Canada".

(4) Subsection 20 of the said section 135 is amended by <sup>s. 135 (20),
amended</sup> striking out "3½" in the third line and inserting in lieu thereof "5".

(5) Subsections 22 and 23 of the said section 135 are repealed <sup>s. 135 (22, 23),
re-enacted</sup> and the following substituted therefor:

(22) When sinking fund debentures are issued, there shall <sup>Sinking
fund</sup> be a sinking fund committee that shall be composed ^{committee} of the financial officer of the Regional Corporation and two members appointed by the Regional Council, and the two appointed members may be paid, out of the current fund of the Regional Corporation, such annual remuneration as the Regional Council determines.

(23) The Regional Council may appoint an alternate <sup>Alternate
members</sup> member for each of the appointed members and any such alternate member has all the powers and duties of the member in the absence or inability to act of such member.

(6) Subclause ii of clause b of subsection 40 of the said section <sup>s. 135 (40)
(b) (ii),</sup> 135 is amended by striking out "subject to the approval of ^{amended} the Municipal Board" in the first line.

14. Subsection 1 of section 154 of the said Act is repealed <sup>s. 154 (1),
re-enacted</sup> and the following substituted therefor:

(1) Section 5, Parts XV, XVI, XVII, and XXI, sections <sup>Application
of R.S.O. 1970,
c. 284</sup> 249 and 254, paragraphs 3 and 24 of section 352, paragraph 61 of subsection 1 of section 354 and section 394 of *The Municipal Act* apply *mutatis mutandis* to the Regional Corporation.

15. This Act comes into force on the day it receives Royal <sup>Commence-
ment</sup> Assent.

16. This Act may be cited as *The Regional Municipality* ^{Short title} of *Niagara Amendment Act, 1972*.

An Act to amend The Regional
Municipality of Niagara Act

1st Reading

April 28th, 1972

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Government Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to amend
The Regional Municipality of Niagara Act**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1.—Subsection 1. Subsection 1 of section 3 prescribes the composition of the council of each area municipality; the subsection added permits the Minister to vary the composition of any area municipality council on its request.

Subsection 2. Subsection 2 empowers the Minister to make certain orders in connection with the municipal elections for the years 1973 and 1974.

An Act to amend The Regional Municipality of Niagara Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 3 of *The Regional Municipality of Niagara Act*, being chapter 406 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection:

- (1a) Notwithstanding subsection 1, the Minister may, on the request of any area municipality, by order, vary the composition of the council of such area municipality.

(2) Subsection 3 of the said section 3 is repealed and the following substituted therefor:

- (3) For the purposes of the elections of the councils of the area municipalities for the years 1973 and 1974, the Minister may by order,

- (a) redivide into wards the Town of Lincoln, the Town of Fort Erie, the City of Niagara Falls, the Town of Pelham, the City of Port Colborne, the City of St. Catharines, the City of Welland or the Township of West Lincoln, all as constituted by section 2, and make provision for the respective number of aldermen to be elected in the respective wards;
- (b) with respect to the City of Niagara Falls, make provision that only persons whose principal place of residence was continuously from the 1st day of January, 1972 to the date of nomination in such wards are eligible to be elected as aldermen for such wards; and
- (c) provide for such other matters as he considers necessary to hold the elections.

s. 3 (5),
repealed

(3) Subsection 5 of the said section 3 is repealed.

s. 27a,
enacted

2. The said Act is amended by adding thereto the following section:

Construction,
etc., of
waterworks
system

27a. The Regional Corporation may pass by-laws for constructing, maintaining, improving, repairing, widening, altering, diverting and stopping up works for the production, treatment and storage of water and trunk distribution mains connected therewith.

s. 28 (6),
re-enacted

3. Subsection 6 of section 28 of the said Act is repealed and the following substituted therefor:

Default

(6) If the Regional Corporation fails to make any payment on or before the due date required by clause *b* of subsection 5, the area municipality may charge the Regional Corporation interest at the rate of 12 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 32 (2),
repealed

4. Subsection 2 of section 32 of the said Act is repealed.

s. 42 (2),
amended

5. Subsection 2 of section 42 of the said Act is amended by striking out "not exceeding one-half of 1 per cent for each month or fraction thereof" in the fourth and fifth lines and inserting in lieu thereof "of 12 per cent per annum, or such lower rate as the Regional Council determines".

s. 50 (6),
re-enacted

6. Subsection 6 of section 50 of the said Act is repealed and the following substituted therefor:

Default

(6) If the Regional Corporation fails to make any payment on or before the due date required by clause *b* of subsection 5, the area municipality may charge the Regional Corporation interest at the rate of 12 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 70 (2),
amended

7. Subsection 2 of section 70 of the said Act is amended by adding at the end thereof "expressed by resolution".

s. 114 (6),
re-enacted

8. Subsection 6 of section 114 of the said Act is repealed and the following substituted therefor:

Default

(6) If the Regional Corporation fails to make any payment on or before the due date required by clause *b* of subsection 5, the area municipality may charge the

Subsection 3. The provisions contained in the repealed subsection are now embodied in subsection 2 of this section.

SECTION 2. The authority of the Regional Corporation to construct, maintain and enlarge water supply facilities is clarified; similar authority presently exists in respect of sewage facilities.

SECTION 3. The permissible interest rate chargeable by an area municipality in respect of overdue payments to it by the Regional Corporation on account of waterworks assumption is doubled.

SECTION 4. The subsection repealed permits the Regional Corporation to continue to fluoridate water supplied to an area where the water was fluoridated prior to January 1st, 1970, as a result of an affirmative vote under *The Fluoridation Act, 1960-61*; a complementary amendment to *The Fluoridation Act* will place the Regional Corporation on the same footing as other municipalities in respect of the fluoridation of water.

SECTION 5. Similar in intent to section 3 of the Bill, in relation to the penalty for late payment for water supplied.

SECTION 6. Similar in intent to section 3 of the Bill, in relation to the penalty for late payment on account of sewage works assumption.

SECTION 7. The subsection amended requires the approval of the Regional Council to the construction of sidewalks, sewers, etc., on a regional road by an area municipality; the words added will permit the approval to be expressed by resolution of the Regional Council.

SECTION 8. Similar in intent to section 3 of the Bill, in relation to the penalty for late payment on account of police buildings assumption.

SECTION 9. The amendment reflects the transfer to the Ministry of Revenue of the assessment functions formerly under the Department of Municipal Affairs.

SECTION 10. The subsections repealed relate to surplus or operating deficits in relation to the year 1970 and are spent; the re-enacted subsection provides for the apportionment of taxes collected on supplementary assessments and the charging back in respect of assessment lost following a reduction on an appeal.

SECTION 11. The amendment is designed to make it clear that the Regional Council may temporarily borrow moneys until other revenues, as well as the levies for the year, are received.

SECTION 12. The authority to obtain temporary advances pending the issue or sale of debentures following Municipal Board approval is extended to area municipality councils as well as the Regional Council, where the debenture issue is for the purposes of the area municipality.

SECTION 13.—Subsection 1. The issue of instalment debentures is authorized; similar authority now exists in *The Municipal Act* for local municipalities having a population of 20,000 or over.

Regional Corporation interest at the rate of 12 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

9. Section 116 of the said Act is amended by adding thereto the following subsection: s. 116,
amended

- (2) In sections 119, 120 and 122 "Department" means the Idem
Ministry of Revenue.

10. Subsections 3 and 4 of section 118 of the said Act are repealed and the following substituted therefor: s. 118 (3),
re-enacted,
s. 118 (4),
repealed

- (3) Section 43 of *The Assessment Act* and section 606 of *The Municipal Act* apply *mutatis mutandis* to the Application
of R.S.O. 1970,
cc. 32, 284
Regional Corporation.

11. Subsection 1 of section 130 of the said Act is amended by inserting after "levies" in the sixth line "and other revenues". s. 130 (1),
amended

12. Subsection 2 of section 134 of the said Act is repealed and the following substituted therefor: s. 134 (2),
re-enacted

- (2) When the Municipal Board has authorized the borrowing of money and the issue of debentures by the Regional Corporation for the purposes of an area municipality, the Regional Council or the council of the area municipality pending the issue and sale of the debentures may, and the Regional Council on the request of the area municipality shall, agree with a bank or person for temporary advances from time to time to meet expenditures incurred for the purposes authorized, and the Regional Council may, or on the request of the area municipality shall, pending the sale of such debentures or in lieu of selling them, authorize the chairman and financial officer to raise money by way of loan on the debentures and to hypothecate them for the loan, and shall transfer the proceeds of such advance or loan to the area municipality. Idem

13.—(1) Section 135 of the said Act is amended by adding thereto the following subsections: s. 135,
amended

- (6a) Notwithstanding subsection 5, the Regional Council may by by-law, Instalment
debentures
and
debentures
to refund
existing
debentures
at maturity
- (a) authorize the borrowing of money by the issue of instalment debentures, the last instalment

of which shall mature not earlier than ten years after the date upon which they are issued, and a specified sum of principal payable thereunder in the final year shall be raised by the issue of refunding debentures as provided in clause *b*, and it shall not be necessary to raise by special rate in the year of maturity of the debentures to be refunded an amount equal to the specified principal amount of the debentures which are being refunded; and

- (*b*) authorize the issue of debentures to refund at maturity outstanding debentures of the municipality, provided that the refunding debentures shall be payable within the maximum period of years that was approved by the order of the Municipal Board for the repayment of debentures issued for the debt for which the outstanding debentures were issued, commencing on the date of the debentures originally issued for such debt,

and any such by-law shall provide that the sums of principal and interest payable under the by-law shall be raised by a special levy or levies against such area municipality or municipalities as may be specified in the by-law and such levy shall be levied against the same area municipality or municipalities in each case.

Levy

- (6*b*) Any special levy against an area municipality imposed by the by-law under the authority of subsection 6*a* may be levied by the area municipality against persons or property in the same manner and subject to the same limitations as if it were passing a by-law authorizing the issue of debentures of the area municipality for the same purpose for the portion of the debt levied against it under subsection 6*a*, and any levy imposed by a by-law under clause *b* of subsection 6*a* shall be levied by the area municipality against the same persons or property as the levy imposed by the related by-law under clause *a* of subsection 6*a* was levied.

s. 135 (18), amended

- (2) Subsection 18 of the said section 135 is amended by adding "or" at the end of clause *c* and by adding thereto the following clause:

- (*d*) subject to the prior approval of the Lieutenant Governor in Council, in a currency other than that of Canada, the United States or Great Britain.

Subsection 2. The amendment permits debentures to be made payable in a currency other than that of Canada, the United States or Great Britain; similar authority now exists in *The Municipal Act* for local municipalities having a population of 75,000 or more.

Subsection 3. The amendment is complementary to subsection 2 of this section.

Subsection 4. The interest rate to be applied in determining the amount of principal to be raised in each year in respect of sinking fund debentures is increased from $3\frac{1}{2}$ per cent per annum to 5 per cent per annum.

Subsection 5. Two of the three members of the sinking fund committee will now be appointed by the Regional Council rather than the Lieutenant Governor in Council, and their remuneration will be in the discretion of the Regional Council.

Subsection 6. The use of a sinking fund surplus to reduce the next annual levy on account of principal and interest of regional or area debentures will not now require Municipal Board approval.

SECTION 14. The reference added is to section 354 (1), paragraph 61, of *The Municipal Act*; the effect is to empower the Regional Corporation to appoint a surveyor and one or more engineers who will have the power to enter on private lands conferred by section 6 of *The Surveys Act*.

(3) Subsection 19 of the said section 135 is amended by ^{s. 135 (19), amended} inserting after "Britain" in the third line "or in any currency other than that of Canada".

(4) Subsection 20 of the said section 135 is amended by ^{s. 135 (20), amended} striking out "3½" in the third line and inserting in lieu thereof "5".

(5) Subsections 22 and 23 of the said section 135 are repealed ^{s. 135 (22, 23), re-enacted} and the following substituted therefor:

(22) When sinking fund debentures are issued, there shall ^{Sinking fund committee} be a sinking fund committee that shall be composed of the financial officer of the Regional Corporation and two members appointed by the Regional Council, and the two appointed members may be paid, out of the current fund of the Regional Corporation, such annual remuneration as the Regional Council determines.

(23) The Regional Council may appoint an alternate ^{Alternate members} member for each of the appointed members and any such alternate member has all the powers and duties of the member in the absence or inability to act of such member.

(6) Subclause ii of clause b of subsection 40 of the said section ^{s. 135 (40) (b) (ii), amended} 135 is amended by striking out "subject to the approval of the Municipal Board" in the first line.

14. Subsection 1 of section 154 of the said Act is repealed ^{s. 154 (1), re-enacted} and the following substituted therefor:

(1) Section 5, Parts XV, XVI, XVII, and XXI, sections ^{Application of R.S.O. 1970, c. 284} 249 and 254, paragraphs 3 and 24 of section 352, paragraph 61 of subsection 1 of section 354 and section 394 of *The Municipal Act* apply *mutatis mutandis* to the Regional Corporation.

15.—(1) This Act, except section 4, comes into force on ^{Commencement} the day it receives Royal Assent.

(2) Section 4 comes into force on a day to be named by the ^{Idem} Lieutenant Governor in Council.

16. This Act may be cited as *The Regional Municipality* ^{Short title} of Niagara Amendment Act, 1972.

An Act to amend The Regional
Municipality of Niagara Act

1st Reading

April 28th, 1972

2nd Reading

May 9th, 1972

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 101

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Regional Municipality of Niagara Act

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

An Act to amend The Regional Municipality of Niagara Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 3 of *The Regional Municipality of Niagara Act*, being chapter 406 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following subsection:

(1a) Notwithstanding subsection 1, the Minister may, on the request of any area municipality, by order, vary the composition of the council of such area municipality.

s. 3,
amended

Minister
may vary
composition
of council

(2) Subsection 3 of the said section 3 is repealed and the following substituted therefor:

s. 3 (3),
re-enacted

(3) For the purposes of the elections of the councils of the area municipalities for the years 1973 and 1974, the Minister may by order,

Elections
1972

- (a) redivide into wards the Town of Lincoln, the Town of Fort Erie, the City of Niagara Falls, the Town of Pelham, the City of Port Colborne, the City of St. Catharines, the City of Welland or the Township of West Lincoln, all as constituted by section 2, and make provision for the respective number of aldermen to be elected in the respective wards;
- (b) with respect to the City of Niagara Falls, make provision that only persons whose principal place of residence was continuously from the 1st day of January, 1972 to the date of nomination in such wards are eligible to be elected as aldermen for such wards; and
- (c) provide for such other matters as he considers necessary to hold the elections.

s. 3 (5),
repealed

(3) Subsection 5 of the said section 3 is repealed.

s. 27a,
enacted

2. The said Act is amended by adding thereto the following section:

Construction,
etc., of
waterworks
system

27a. The Regional Corporation may pass by-laws for constructing, maintaining, improving, repairing, widening, altering, diverting and stopping up works for the production, treatment and storage of water and trunk distribution mains connected therewith.

s. 28 (6),
re-enacted

3. Subsection 6 of section 28 of the said Act is repealed and the following substituted therefor:

Default

(6) If the Regional Corporation fails to make any payment on or before the due date required by clause *b* of subsection 5, the area municipality may charge the Regional Corporation interest at the rate of 12 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 32 (2),
repealed

4. Subsection 2 of section 32 of the said Act is repealed.

s. 42 (2),
amended

5. Subsection 2 of section 42 of the said Act is amended by striking out "not exceeding one-half of 1 per cent for each month or fraction thereof" in the fourth and fifth lines and inserting in lieu thereof "of 12 per cent per annum, or such lower rate as the Regional Council determines".

s. 50 (6),
re-enacted

6. Subsection 6 of section 50 of the said Act is repealed and the following substituted therefor:

Default

(6) If the Regional Corporation fails to make any payment on or before the due date required by clause *b* of subsection 5, the area municipality may charge the Regional Corporation interest at the rate of 12 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 70 (2),
amended

7. Subsection 2 of section 70 of the said Act is amended by adding at the end thereof "expressed by resolution".

s. 114 (6),
re-enacted

8. Subsection 6 of section 114 of the said Act is repealed and the following substituted therefor:

Default

(6) If the Regional Corporation fails to make any payment on or before the due date required by clause *b* of subsection 5, the area municipality may charge the

Regional Corporation interest at the rate of 12 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

9. Section 116 of the said Act is amended by adding ^{s. 116,} thereto the following subsection: ^{amended}

- (2) In sections 119, 120 and 122 "Department" means the ^{Idem} Ministry of Revenue.

10. Subsections 3 and 4 of section 118 of the said Act ^{s. 118 (3),} are repealed and the following substituted therefor: ^{re-enacted,}
^{s. 118 (4),}
^{repealed}

- (3) Section 43 of *The Assessment Act* and section 606 of *The Municipal Act* apply *mutatis mutandis* to the ^{Application} ^{of R.S.O. 1970,} ^{cc. 32, 384} Regional Corporation.

11. Subsection 1 of section 130 of the said Act is amended by ^{s. 130 (1),} inserting after "levies" in the sixth line "and other revenues". ^{amended}

12. Subsection 2 of section 134 of the said Act is repealed ^{s. 134 (2),} and the following substituted therefor: ^{re-enacted}

- (2) When the Municipal Board has authorized the borrow- ^{Idem} ing of money and the issue of debentures by the Regional Corporation for the purposes of an area municipality, the Regional Council or the council of the area municipality pending the issue and sale of the debentures may, and the Regional Council on the request of the area municipality shall, agree with a bank or person for temporary advances from time to time to meet expenditures incurred for the purposes authorized, and the Regional Council may, or on the request of the area municipality shall, pending the sale of such debentures or in lieu of selling them, authorize the chairman and financial officer to raise money by way of loan on the debentures and to hypothecate them for the loan, and shall transfer the proceeds of such advance or loan to the area municipality.

13.—(1) Section 135 of the said Act is amended by adding ^{s. 135,} thereto the following subsections: ^{amended}

- (6a) Notwithstanding subsection 5, the Regional Council ^{Instalment} ^{debentures} ^{and} ^{debentures} ^{to refund} ^{existing} ^{debentures} ^{at maturity} may by by-law,
(a) authorize the borrowing of money by the issue of instalment debentures, the last instalment

of which shall mature not earlier than ten years after the date upon which they are issued, and a specified sum of principal payable thereunder in the final year shall be raised by the issue of refunding debentures as provided in clause *b*, and it shall not be necessary to raise by special rate in the year of maturity of the debentures to be refunded an amount equal to the specified principal amount of the debentures which are being refunded; and

- (*b*) authorize the issue of debentures to refund at maturity outstanding debentures of the municipality, provided that the refunding debentures shall be payable within the maximum period of years that was approved by the order of the Municipal Board for the repayment of debentures issued for the debt for which the outstanding debentures were issued, commencing on the date of the debentures originally issued for such debt,

and any such by-law shall provide that the sums of principal and interest payable under the by-law shall be raised by a special levy or levies against such area municipality or municipalities as may be specified in the by-law and such levy shall be levied against the same area municipality or municipalities in each case.

Levy

- (6*b*) Any special levy against an area municipality imposed by the by-law under the authority of subsection 6*a* may be levied by the area municipality against persons or property in the same manner and subject to the same limitations as if it were passing a by-law authorizing the issue of debentures of the area municipality for the same purpose for the portion of the debt levied against it under subsection 6*a*, and any levy imposed by a by-law under clause *b* of subsection 6*a* shall be levied by the area municipality against the same persons or property as the levy imposed by the related by-law under clause *a* of subsection 6*a* was levied.

s. 135 (18), amended

- (2) Subsection 18 of the said section 135 is amended by adding "or" at the end of clause *c* and by adding thereto the following clause:

- (*d*) subject to the prior approval of the Lieutenant Governor in Council, in a currency other than that of Canada, the United States or Great Britain.

(3) Subsection 19 of the said section 135 is amended by <sup>s. 135 (19),
amended</sup> inserting after "Britain" in the third line "or in any currency other than that of Canada".

(4) Subsection 20 of the said section 135 is amended by <sup>s. 135 (20),
amended</sup> striking out "3½" in the third line and inserting in lieu thereof "5".

(5) Subsections 22 and 23 of the said section 135 are repealed <sup>s. 135 (22, 23),
re-enacted</sup> and the following substituted therefor:

(22) When sinking fund debentures are issued, there shall <sup>Sinking
fund
committee</sup> be a sinking fund committee that shall be composed of the financial officer of the Regional Corporation and two members appointed by the Regional Council, and the two appointed members may be paid, out of the current fund of the Regional Corporation, such annual remuneration as the Regional Council determines.

(23) The Regional Council may appoint an alternate <sup>Alternate
members</sup> member for each of the appointed members and any such alternate member has all the powers and duties of the member in the absence or inability to act of such member.

(6) Subclause ii of clause b of subsection 40 of the said section <sup>s. 135 (40)
(b) (ii),
amended</sup> 135 is amended by striking out "subject to the approval of" the Municipal Board" in the first line.

14. Subsection 1 of section 154 of the said Act is repealed <sup>s. 154 (1),
re-enacted</sup> and the following substituted therefor:

(1) Section 5, Parts XV, XVI, XVII, and XXI, sections <sup>Application
of R.S.O. 1970,
c. 284</sup> 249 and 254, paragraphs 3 and 24 of section 352, paragraph 61 of subsection 1 of section 354 and section 394 of *The Municipal Act* apply *mutatis mutandis* to the Regional Corporation.

15.—(1) This Act, except section 4, comes into force on <sup>Commence-
ment</sup> the day it receives Royal Assent.

(2) Section 4 comes into force on a day to be named by the ^{Idem} Lieutenant Governor by his proclamation.

16. This Act may be cited as *The Regional Municipality* ^{Short title} of Niagara Amendment Act, 1972.

An Act to amend The Regional
Municipality of Niagara Act

1st Reading

April 28th, 1972

2nd Reading

May 9th, 1972

3rd Reading

May 11th, 1972

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The District Municipality of Muskoka Act

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of
Economics and Intergovernmental Affairs

EXPLANATORY NOTES

SECTION 1. The permissible interest rate chargeable by an area municipality in respect of overdue payments to it by the District Corporation on account of sewage treatment works assumption is doubled.

SECTION 2. The effect is to permit the area municipality to be chargeable with the whole or such portion of the capital cost of a sewage work or water-course as the by-law specifies, where the area municipality receives a special benefit therefrom.

SECTION 3. The subsection amended requires the approval of the District Council to the construction of sidewalks, sewers, etc., on a district road by an area municipality; the words added will permit the approval to be expressed by resolution of the District Council.

BILL 102

1972

An Act to amend The District Municipality of Muskoka Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 6 of section 29 of *The District Municipality of Muskoka Act*, being chapter 131 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 29 (6),
re-enacted

- (6) If the District Corporation fails to make any payment Default on or before the due date required by clause *b* of subsection 5, the area municipality may charge the District Corporation interest at the rate of 12 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

2. Subsection 1 of section 33 of the said Act is repealed s. 33 (1),
re-enacted and the following substituted therefor:

- (1) Where, in the opinion of the District Council, an Special
benefit area municipality or a portion thereof will or may derive a special benefit from the assumption or construction and operation of a work or watercourse, the District Council may, with the approval of the Municipal Board, at the time of authorizing the construction, extension or improvement of the work, and at any time in respect of the assumption of the work, by by-law provide that the area municipality shall be chargeable with and shall pay to the District Corporation the whole or such portion of the capital cost thereof as the by-law specifies, and such by-law is binding on the area municipality.

3. Subsection 2 of section 49 of the said Act is amended s. 49 (2),
amended by adding at the end thereof "expressed by resolution".

s. 56 (1),
amended

4. Subsection 1 of section 56 of the said Act is amended by inserting after "by" in the fourth line "resolution of".

s. 64 (3),
re-enacted

5. Subsection 3 of section 64 of the said Act is repealed and the following substituted therefor:

Default

(3) If the District Corporation fails to make any payment on or before the due date required by subsection 2, the area municipality may charge the District Corporation interest at the rate of 12 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 89,
amended

6. Section 89 of the said Act is amended by adding thereto the following subsection:

Idem

(2) In sections 92, 94 and 96, "Department" means the Ministry of Revenue.

s. 91,
amended

7. Section 91 of the said Act is amended by adding thereto the following subsection:

Application
of R.S.O. 1970,
cc. 32, 284

(3) Section 43 of *The Assessment Act* and section 606 of *The Municipal Act* apply *mutatis mutandis* to the District Corporation.

s. 106 (1),
amended

8. Subsection 1 of section 106 of the said Act is amended by inserting after "levies" in the sixth line "and other revenues".

s. 111,
amended

9.—(1) Section 111 of the said Act is amended by adding thereto the following subsections:

Instalment
debentures
and
debentures
to refund
existing
debentures
at maturity

(6a) Notwithstanding subsection 5, the District Council may by by-law,

(a) authorize the borrowing of money by the issue of instalment debentures, the last instalment of which shall mature not earlier than ten years after the date upon which they are issued, and a specified sum of principal payable thereunder in the final year shall be raised by the issue of refunding debentures as provided in clause b, and it shall not be necessary to raise by special rate in the year of maturity of the debentures to be refunded an amount equal to the specified principal amount of the debentures which are being refunded; and

SECTION 4. Area municipality traffic by-laws require the approval of the District Council; the amendment permits the approval to be expressed by resolution rather than by by-law.

SECTION 5. Similar in intent to section 1 of the Bill, in relation to the penalty for late payment on account of the addition of a road to the district road system.

SECTION 6. The amendment reflects the transfer to the Ministry of Revenue of the assessment functions formerly under the Department of Municipal Affairs.

SECTION 7. The subsection added provides for the apportionment of taxes collected on supplementary assessments and the charging back in respect of assessment lost following a reduction on an appeal.

SECTION 8. The amendment is designed to make it clear that the District Council may temporarily borrow moneys until other revenues, as well as the levies for the year, are received.

SECTION 9.—Subsection 1. The issue of instalment debentures is authorized; similar authority now exists in *The Municipal Act* for local municipalities having a population of 20,000 or over.

Subsection 2. Two of the three members of the sinking fund committee will now be appointed by the District Council rather than the Lieutenant Governor in Council and their remuneration will be in the discretion of the District Council.

- (b) authorize the issue of debentures to refund at maturity outstanding debentures of the municipality, provided that the refunding debentures shall be payable within the maximum period of years that was approved by the order of the Municipal Board for the repayment of debentures issued for the debt for which the outstanding debentures were issued, commencing on the date of the debentures originally issued for such debt,

and any such by-law shall provide that the sums of principal and interest payable under the by-law shall be raised by a special levy or levies against such area municipality or municipalities as may be specified in the by-law and such levy shall be levied against the same area municipality or municipalities in each case.

- (6b) Any special levy against an area municipality imposed ^{Levy} by the by-law under the authority of subsection 6a may be levied by the area municipality against persons or property in the same manner and subject to the same limitations as if it were passing a by-law authorizing the issue of debentures of the area municipality for the same purpose for the portion of the debt levied against it under subsection 6a, and any levy imposed by a by-law under clause b of subsection 6a shall be levied by the area municipality against the same persons or property as the levy imposed by the related by-law under clause a of subsection 6a was levied.

(2) Subsections 22 and 23 of the said section 111 are ^{s. 111 (22, 23), re-enacted} repealed and the following substituted therefor:

- (22) When sinking fund debentures are issued, there shall ^{Sinking fund committee} be a sinking fund committee that shall be composed of the treasurer of the District Corporation and two members appointed by the District Council, and the two appointed members may be paid, out of the current fund of the District Corporation, such annual remuneration as the District Council determines.
- (23) The District Council may appoint an alternate ^{Alternate members} member for each of the appointed members and any such alternate member has all the powers and duties of the member in the absence or inability to act of such member.

s. 111 (40)
(b) (ii),
amended

(3) Subclause ii of clause *b* of subsection 40 of the said section 111 is amended by striking out "subject to the approval of the Municipal Board" in the first line.

Commence-
ment

10. This Act comes into force on the day it receives Royal Assent.

Short title

11. This Act may be cited as *The District Municipality of Muskoka Amendment Act, 1972*.

Subsection 3. The use of a sinking fund surplus to reduce the next annual levy on account of principal and interest of district or area debentures will not now require Municipal Board approval.

An Act to amend The District
Municipality of Muskoka Act

1st Reading

April 28th, 1972

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

((Government Bill))

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The District Municipality of Muskoka Act

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of
Economics and Intergovernmental Affairs

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. The permissible interest rate chargeable by an area municipality in respect of overdue payments to it by the District Corporation on account of sewage treatment works assumption is doubled.

SECTION 2. The effect is to permit the area municipality to be chargeable with the whole or such portion of the capital cost of a sewage work or water-course as the by-law specifies, where the area municipality receives a special benefit therefrom.

SECTION 3. The subsection amended requires the approval of the District Council to the construction of sidewalks, sewers, etc., on a district road by an area municipality; the words added will permit the approval to be expressed by resolution of the District Council.

BILL 102

1972

An Act to amend The District Municipality of Muskoka Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 6 of section 29 of *The District Municipality of Muskoka Act*, being chapter 131 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

- (6) If the District Corporation fails to make any payment ^{Default} on or before the due date required by clause *b* of subsection 5, the area municipality may charge the District Corporation interest at the rate of 12 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

2. Subsection 1 of section 33 of the said Act is repealed ^{s. 33 (1), re-enacted} and the following substituted therefor:

- (1) Where, in the opinion of the District Council, an ^{Special benefit} area municipality or a portion thereof will or may derive a special benefit from the assumption or construction and operation of a work or watercourse, the District Council may, with the approval of the Municipal Board, at the time of authorizing the construction, extension or improvement of the work, and at any time in respect of the assumption of the work, by by-law provide that the area municipality shall be chargeable with and shall pay to the District Corporation the whole or such portion of the capital cost thereof as the by-law specifies, and such by-law is binding on the area municipality.

3. Subsection 2 of section 49 of the said Act is amended ^{s. 49 (2), amended} by adding at the end thereof "expressed by resolution".

s. 56 (1),
amended

4. Subsection 1 of section 56 of the said Act is amended by inserting after "by" in the fourth line "resolution of".

s. 64 (3),
re-enacted

5. Subsection 3 of section 64 of the said Act is repealed and the following substituted therefor:

Default

(3) If the District Corporation fails to make any payment on or before the due date required by subsection 2, the area municipality may charge the District Corporation interest at the rate of 12 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 89,
amended

6. Section 89 of the said Act is amended by adding thereto the following subsection:

Idem

(2) In sections 92, 94 and 96, "Department" means the Ministry of Revenue.

s. 91,
amended

7. Section 91 of the said Act is amended by adding thereto the following subsection:

Application
of R.S.O. 1970,
cc. 32, 284

(3) Section 43 of *The Assessment Act* and section 606 of *The Municipal Act* apply *mutatis mutandis* to the District Corporation.

s. 106 (1),
amended

8. Subsection 1 of section 106 of the said Act is amended by inserting after "levies" in the sixth line "and other revenues".

s. 110 (2),
re-enacted

9. Subsection 2 of section 110 of the said Act is repealed and the following substituted therefor:

Idem

(2) When the Municipal Board has authorized the borrowing of money and the issue of debentures by the District Corporation for the purposes of an area municipality, the District Council or the council of the area municipality pending the issue and sale of the debentures may, and the District Council on the request of the area municipality shall, agree with a bank or person for temporary advances from time to time to meet expenditures incurred for the purposes authorized, and the District Council may, or on the request of the area municipality shall, pending the sale of such debentures or in lieu of selling them, authorize the chairman and financial officer to raise money by way of loan on the debentures and to hypothecate them for the loan, and shall transfer the proceeds of such advance or loan to the area municipality.

SECTION 4. Area municipality traffic by-laws require the approval of the District Council; the amendment permits the approval to be expressed by resolution rather than by by-law.

SECTION 5. Similar in intent to section 1 of the Bill, in relation to the penalty for late payment on account of the addition of a road to the district road system.

SECTION 6. The amendment reflects the transfer to the Ministry of Revenue of the assessment functions formerly under the Department of Municipal Affairs.

SECTION 7. The subsection added provides for the apportionment of taxes collected on supplementary assessments and the charging back in respect of assessment lost following a reduction on an appeal.

SECTION 8. The amendment is designed to make it clear that the District Council may temporarily borrow moneys until other revenues, as well as the levies for the year, are received.

SECTION 10.—Subsection 1. The issue of instalment debentures is authorized; similar authority now exists in *The Municipal Act* for local municipalities having a population of 20,000 or over.

10.—(1) Section 111 of the said Act is amended by adding^{s. 111, amended} thereto the following subsections:

- (6a) Notwithstanding subsection 5, the District Council may by by-law,
- (a) authorize the borrowing of money by the issue of instalment debentures, the last instalment of which shall mature not earlier than ten years after the date upon which they are issued, and a specified sum of principal payable thereunder in the final year shall be raised by the issue of refunding debentures as provided in clause *b*, and it shall not be necessary to raise by special rate in the year of maturity of the debentures to be refunded an amount equal to the specified principal amount of the debentures which are being refunded; and

- (b) authorize the issue of debentures to refund at maturity outstanding debentures of the municipality, provided that the refunding debentures shall be payable within the maximum period of years that was approved by the order of the Municipal Board for the repayment of debentures issued for the debt for which the outstanding debentures were issued, commencing on the date of the debentures originally issued for such debt,

and any such by-law shall provide that the sums of principal and interest payable under the by-law shall be raised by a special levy or levies against such area municipality or municipalities as may be specified in the by-law and such levy shall be levied against the same area municipality or municipalities in each case.

- (6b) Any special levy against an area municipality imposed by the by-law under the authority of subsection 6a may be levied by the area municipality against persons or property in the same manner and subject to the same limitations as if it were passing a by-law authorizing the issue of debentures of the area municipality for the same purpose for the portion of the debt levied against it under subsection 6a, and any levy imposed by a by-law under clause *b* of subsection 6a shall be levied by the area municipality against the same persons or property as the levy imposed by the related by-law under clause *a* of subsection 6a was levied.

s. 111 (20),
amended

(2) Subsection 20 of the said section 111 is amended by striking out "3½" in the third line and inserting in lieu thereof "5".

s. 111 (22, 23),
re-enacted

(3) Subsections 22 and 23 of the said section 111 are repealed and the following substituted therefor:

Sinking
fund
committee

(22) When sinking fund debentures are issued, there shall be a sinking fund committee that shall be composed of the treasurer of the District Corporation and two members appointed by the District Council, and the two appointed members may be paid, out of the current fund of the District Corporation, such annual remuneration as the District Council determines.

Alternate
members

(23) The District Council may appoint an alternate member for each of the appointed members and any such alternate member has all the powers and duties of the member in the absence or inability to act of such member.

s. 111 (40)
(b) (ii),
amended

(4) Subclause ii of clause b of subsection 40 of the said section 111 is amended by striking out "subject to the approval of the Municipal Board" in the first line.

Commence-
ment

11. This Act comes into force on the day it receives Royal Assent.

Short title

12. This Act may be cited as *The District Municipality of Muskoka Amendment Act, 1972*.

Subsection 3. Two of the three members of the sinking fund committee will now be appointed by the District Council rather than the Lieutenant Governor in Council and their remuneration will be in the discretion of the District Council.

Subsection 4. The use of a sinking fund surplus to reduce the next annual levy on account of principal and interest of district or area debentures will not now require Municipal Board approval.

An Act to amend The District
Municipality of Muskoka Act

1st Reading

April 28th, 1972

2nd Reading

May 9th, 1972

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Reprinted as amended by the
Committee of the Whole House)

BILL 102

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The District Municipality of Muskoka Act

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of
Economics and Intergovernmental Affairs

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

BILL 102

1972

**An Act to amend
The District Municipality of Muskoka Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 6 of section 29 of *The District Municipality of Muskoka Act*, being chapter 131 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 29 (6),
re-enacted

- (6) If the District Corporation fails to make any payment Default on or before the due date required by clause *b* of subsection 5, the area municipality may charge the District Corporation interest at the rate of 12 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

2. Subsection 1 of section 33 of the said Act is repealed s. 33 (1),
re-enacted and the following substituted therefor:

- (1) Where, in the opinion of the District Council, an area municipality or a portion thereof will or may derive a special benefit from the assumption or construction and operation of a work or watercourse, the District Council may, with the approval of the Municipal Board, at the time of authorizing the construction, extension or improvement of the work, and at any time in respect of the assumption of the work, by by-law provide that the area municipality shall be chargeable with and shall pay to the District Corporation the whole or such portion of the capital cost thereof as the by-law specifies, and such by-law is binding on the area municipality. Special
benefit

3. Subsection 2 of section 49 of the said Act is amended s. 49 (2),
amended by adding at the end thereof "expressed by resolution".

s. 56 (1),
amended

4. Subsection 1 of section 56 of the said Act is amended by inserting after "by" in the fourth line "resolution of".

s. 64 (3),
re-enacted

5. Subsection 3 of section 64 of the said Act is repealed and the following substituted therefor:

Default

(3) If the District Corporation fails to make any payment on or before the due date required by subsection 2, the area municipality may charge the District Corporation interest at the rate of 12 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 89,
amended

6. Section 89 of the said Act is amended by adding thereto the following subsection:

Idem

(2) In sections 92, 94 and 96, "Department" means the Ministry of Revenue.

s. 91,
amended

7. Section 91 of the said Act is amended by adding thereto the following subsection:

Application
of R.S.O. 1970,
cc. 32, 284

(3) Section 43 of *The Assessment Act* and section 606 of *The Municipal Act* apply *mutatis mutandis* to the District Corporation.

s. 106 (1),
amended

8. Subsection 1 of section 106 of the said Act is amended by inserting after "levies" in the sixth line "and other revenues".

s. 110 (2),
re-enacted

9. Subsection 2 of section 110 of the said Act is repealed and the following substituted therefor:

Idem

(2) When the Municipal Board has authorized the borrowing of money and the issue of debentures by the District Corporation for the purposes of an area municipality, the District Council or the council of the area municipality pending the issue and sale of the debentures may, and the District Council on the request of the area municipality shall, agree with a bank or person for temporary advances from time to time to meet expenditures incurred for the purposes authorized, and the District Council may, or on the request of the area municipality shall, pending the sale of such debentures or in lieu of selling them, authorize the chairman and financial officer to raise money by way of loan on the debentures and to hypothecate them for the loan, and shall transfer the proceeds of such advance or loan to the area municipality.

10.—(1) Section 111 of the said Act is amended by adding ^{s. 111,} thereto the following subsections: ^{amended}

(6a) Notwithstanding subsection 5, the District Council ^{Instalment debentures and debentures to refund existing debentures at maturity} may by by-law,

(a) authorize the borrowing of money by the issue of instalment debentures, the last instalment of which shall mature not earlier than ten years after the date upon which they are issued, and a specified sum of principal payable thereunder in the final year shall be raised by the issue of refunding debentures as provided in clause *b*, and it shall not be necessary to raise by special rate in the year of maturity of the debentures to be refunded an amount equal to the specified principal amount of the debentures which are being refunded; and

(b) authorize the issue of debentures to refund at maturity outstanding debentures of the municipality, provided that the refunding debentures shall be payable within the maximum period of years that was approved by the order of the Municipal Board for the repayment of debentures issued for the debt for which the outstanding debentures were issued, commencing on the date of the debentures originally issued for such debt,

and any such by-law shall provide that the sums of principal and interest payable under the by-law shall be raised by a special levy or levies against such area municipality or municipalities as may be specified in the by-law and such levy shall be levied against the same area municipality or municipalities in each case.

(6b) Any special levy against an area municipality imposed ^{Levy} by the by-law under the authority of subsection 6a may be levied by the area municipality against persons or property in the same manner and subject to the same limitations as if it were passing a by-law authorizing the issue of debentures of the area municipality for the same purpose for the portion of the debt levied against it under subsection 6a, and any levy imposed by a by-law under clause *b* of subsection 6a shall be levied by the area municipality against the same persons or property as the levy imposed by the related by-law under clause *a* of subsection 6a was levied.

s. 111 (20),
amended

(2) Subsection 20 of the said section 111 is amended by striking out "3½" in the third line and inserting in lieu thereof "5".

s. 111 (22, 23),
re-enacted

(3) Subsections 22 and 23 of the said section 111 are repealed and the following substituted therefor:

Sinking
fund
committee

(22) When sinking fund debentures are issued, there shall be a sinking fund committee that shall be composed of the treasurer of the District Corporation and two members appointed by the District Council, and the two appointed members may be paid, out of the current fund of the District Corporation, such annual remuneration as the District Council determines.

Alternate
members

(23) The District Council may appoint an alternate member for each of the appointed members and any such alternate member has all the powers and duties of the member in the absence or inability to act of such member.

s. 111 (40)
(b) (ii),
amended

(4) Subclause ii of clause b of subsection 40 of the said section 111 is amended by striking out "subject to the approval of the Municipal Board" in the first line.

Commence-
ment

11. This Act comes into force on the day it receives Royal Assent.

Short title

12. This Act may be cited as *The District Municipality of Muskoka Amendment Act, 1972*.

An Act to amend The District
Municipality of Muskoka Act

1st Reading

April 28th, 1972

2nd Reading

May 9th, 1972

3rd Reading

May 11th, 1972

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to amend The Ontario Society for the Prevention
of Cruelty to Animals Act, 1955**

MR. SHULMAN

EXPLANATORY NOTE

The amendment delegates to the S.P.C.A. the licensing and regulating of dog kennels.

BILL 103

1972

An Act to amend The Ontario Society for the Prevention of Cruelty to Animals Act, 1955

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 7 of *The Ontario Society for the Prevention of Cruelty to Animals Act, 1955*, being chapter 58, is amended^{s. 7, amended} by adding thereto the following subsections:

(1a) Without restricting the generality of subsection 1,^{Regulation of kennels} the Society may pass by-laws,

- (a) requiring and providing for the licensing of kennels and prescribing the terms and conditions of licences;
- (b) prescribing the standards for the accommodation, facilities and operation of kennels including the care of dogs therein;
- (c) requiring the payment of fees for licences and prescribing the amount thereof.

.

(4) In this section, "kennel" means any premises where^{"kennel" defined} dogs are kept for the purposes of boarding, breeding or sale for gain.

2. This Act comes into force on the day it receives Royal^{Commence-} Assent.^{ment}

3. This Act may be cited as *The Ontario Society for the Prevention of Cruelty to Animals Amendment Act, 1972*.^{Short title}

An Act to amend The Ontario Society for
the Prevention of Cruelty to Animals Act,
1955

1st Reading

May 1st, 1972

2nd Reading

3rd Reading

MR. SHULMAN

(Private Member's Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Securities Act

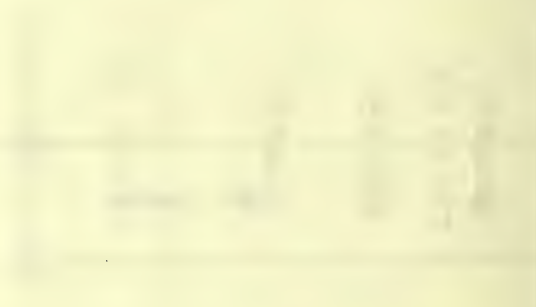
MR. DEACON

U.S. GOVERNMENT PRINTING OFFICE
1917

U.S. GOVERNMENT PRINTING OFFICE

EXPLANATORY NOTE

Self-explanatory.



BILL 104

1972

An Act to amend The Securities Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Securities Act*, being chapter 426 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

113a.—(1) Where there is substantial trading in the shares of a corporation for a period prior to an announcement by the corporation of information that materially affects the value of its shares, the Commission shall carry out an investigation into the buying and selling of the shares by the major sources of the trading and any final written report of the investigation shall be available for public inspection.

(2) The Commission may delegate the responsibility of making an investigation under subsection 1 to the Toronto Stock Exchange which shall report its findings to the Commission when it has completed its investigation.

2. This Act comes into force on the day it receives Royal Assent.

3. This Act may be cited as *The Securities Amendment Act, 1972*.

An Act to amend
The Securities Act

1st Reading

May 1st, 1972

2nd Reading

3rd Reading

MR. DEACON

(Private Member's Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to provide for
Collective Bargaining for Crown Employees**

THE HON. C. MACNAUGHTON
Chairman, Management Board of Cabinet

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

EXPLANATORY NOTE

A Bill to formalize collective bargaining procedures for Crown employees was introduced in November, 1970 (Bill 217) but was not taken beyond first reading.

In the intervening period, submissions were received from, and discussions held with, all the existing bargaining representatives of Crown employees and as a result of such submissions and discussions, significant changes were made.

The purpose of the present Bill is similar to that of the previous Bill, and is to extend and regulate collective bargaining procedures in the government service under the authority of a Tribunal having power to decide matters concerning representation of employees by bargaining agents and to protect employees against unfair labour practices. The Bill provides procedures for the resolution of grievances arising out of the application or interpretation of collective agreements, as well as for the settlement of bargaining disputes.

The principal changes from Bill 217 are:

1. Identification of and a considerable broadening of those matters which are bargainable. (See Sections 6 and 17.)
2. Penalties for contravention of the Act are made applicable to representatives of the employer as well as to employees. (See Section 42.)
3. Representation rights can be achieved on receiving 50 per cent of the votes cast instead of 50 per cent of the eligible voters. (See Section 4 (2).)
4. Deletion of the right of the Lieutenant Governor in Council to exclude any matter or any position or classification from the scope of collective bargaining.
5. The members of the Ontario Provincial Police Force and the employees of colleges of applied arts and technology are removed from the scope of the Act.

An Act to provide for Collective Bargaining for Crown Employees

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

- (a) “adjudicator” means a member of the Ontario Public Service Labour Relations Tribunal;
- (b) “bargaining agent” means an employee organization that has representation rights under this Act;
- (c) “bargaining unit” means a unit of employees established for collective bargaining in accordance with this Act;
- (d) “board” means a board of arbitration established under this Act;
- (e) “civil servant” means a civil servant as defined in *The Public Service Act*;
- (f) “classified service” means the classified service as defined in *The Public Service Act*;
- (g) “collective agreement” means an agreement in writing between the employer and an employee organization covering terms and conditions of employment;
- (h) “Crown” means Her Majesty in right of Ontario;
- (i) “employee” means a person employed in the service of the Crown or an agency of the Crown and includes persons employed by the Liquor Control Board, the Liquor Licence Board, the Ontario Hospital Services Commission, the Ontario Housing Corporation, the

R.S.O. 1970,
c. 386

Niagara Parks Commission and the Workmen's Compensation Board but does not include,

- (i) an employee of The Hydro-Electric Power Commission of Ontario or the Ontario Northland Transportation Commission,
 - (ii) a member of the Ontario Provincial Police Force,
 - (iii) an employee of a college of applied arts and technology,
 - (iv) a person employed in a managerial or confidential capacity,
 - (v) a person who is a member of the architectural, dental, engineering, legal or medical professions, entitled to practise in Ontario and employed in a professional capacity,
 - (vi) a person who is employed on a casual or temporary basis unless he has been so employed continuously for a period of six months, or more,
 - (vii) a person engaged under contract in a professional or other special capacity, or for a project of a non-recurring kind, or on a temporary work assignment arranged by the Civil Service Commission in accordance with its program for providing temporary help,
 - (viii) a person engaged and employed outside Ontario, or
 - (ix) a person employed in the office of the Provincial Auditor or of the Speaker, Deputy Speaker or Clerk of the Assembly;
- (j) "employee organization" means an organization of employees formed for the purpose of regulating relations between the employer and employees under this Act, but does not include such an organization of employees that,
- (i) receives from any of its members who are employees any money for activities carried on by or on behalf of any political party,

- (ii) handles or pays in its own name on behalf of members who are employees any money for activities carried on by or on behalf of any political party,
 - (iii) requires as a condition of membership therein the payment by any of its members who are employees of any money for activities carried on by or on behalf of any political party,
 - (iv) supports or requires its members who are employees otherwise to support any political party, or
 - (v) discriminates against any employee because of sex, race, national origin, colour or religion;
- (k) "employer" means the Crown in right of Ontario;
- (l) "lock-out" includes the closing of a place of employment, a suspension of work or a refusal by the employer to continue to employ a number of employees with a view to compel or induce the employees, or to aid another employer to compel or induce his employees, to refrain from exercising any rights or privileges under this Act or to agree to provisions or changes in provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, the employee organization or the employees;
- (m) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (n) "party" means the employee organization that is the bargaining agent for a bargaining unit, on the one hand, and the employer, on the other hand, and "parties" means the two of them;
- (o) "person employed in a managerial or confidential capacity" means a person who,
- (i) is employed in a position confidential to the Lieutenant Governor, a Minister of the Crown, a judge of a provincial court, the deputy head of a ministry of the Government of Ontario or the chief executive officer of any agency of the Crown,

- (ii) is involved in the formulation of organization objectives and policy in relation to the development and administration of programs of the Government or an agency of the Crown or in the formulation of budgets of the Government or an agency of the Crown,
 - (iii) spends a significant portion of his time in the supervision of employees,
 - (iv) is required by reason of his duties or responsibilities to deal formally on behalf of the employer with a grievance of an employee,
 - (v) adjudicates or determines claims for compensation which are made pursuant to the provisions of any statute,
 - (vi) is employed in a position confidential to any person described in subclause i, ii, iii, iv or v,
 - (vii) is employed in a confidential capacity in matters relating to employee relations including a person employed in a clerical, stenographic or secretarial position in the Civil Service Commission or in a personnel office in a ministry or agency of the Government of Ontario, or
 - (viii) is not otherwise described in subclauses i to vii but who in the opinion of the Tribunal should not be included in a bargaining unit by reason of his duties and responsibilities to the employer;
- (p) "public servant" means a public servant as defined in *The Public Service Act* and "public service" has a corresponding meaning;
- (q) "Public Service Grievance Board" means the Public Service Grievance Board established under *The Public Service Act*;
- (r) "regulations" means the regulations made under this Act;
- (s) "strike" includes a cessation of work, a refusal to work or to continue to work by employees in combination or in concert or in accordance with a common understanding, or a slow-down or other concerted activity on the part of employees designed to restrict or interfere with work or services;

(t) "Tribunal" means the Ontario Public Service Labour Relations Tribunal;

(u) "unclassified service" means the unclassified service as defined in *The Public Service Act*.

R.S.O. 1970,
c. 386

(2) The employer may be represented, in the case of the public service, by the Management Board of Cabinet, and in the case of an agency of the Crown, by the body designated by the regulations. Employer representative

(3) No employee shall be deemed to have ceased to be employed by reason only of his ceasing to work for the employer as a result of a lock-out contrary to section 25 or by reason only of his being dismissed by the employer contrary to this Act or to a collective agreement. No loss of employment by lock-out, etc.

REPRESENTATION RIGHTS

2.—(1) Where no employee organization has representation rights in respect of a unit of employees that the employee organization claims to be appropriate for collective bargaining, an employee organization may apply at any time to the Tribunal for representation rights as bargaining agent of the employees in such unit. Application for representation rights

(2) Where a collective agreement is for a term of not more than three years, an employee organization may apply to the Tribunal for representation rights as bargaining agent of the employees in the bargaining unit only during the period between the ninetieth and one hundred and twentieth days prior to the termination of the agreement. Idem

(3) Where a collective agreement is for a term of more than three years, an employee organization may apply to the Tribunal for representation rights as bargaining agent of the employees in the bargaining unit only during the thirty-day period immediately prior to the last ninety days, Idem

(a) of the operation of the third year of the agreement;

(b) of each year that the agreement continues to operate after the third year; or

(c) of the termination of the agreement.

(4) Every application for representation rights shall be accompanied by the financial statement of the employee organization for the latest complete fiscal year or, if the employee organization has not been in existence for a Application to include financial statement

complete fiscal year, for the period it has been in existence, and an affidavit both in the same form as required under subsections 1 and 2 of section 45.

Rep-
resentation
rights on
coming into
force of Act

(5) Every employee organization designated by the regulations shall be deemed to have been granted representation rights under this Act upon the coming into force of this Act in relation to such bargaining unit or units as are designated by the regulations.

Tribunal to
establish
appropriate
unit of
employees

3.—(1) Upon an application for representation rights, the Tribunal shall, subject to subsection 2, determine the unit of employees that is appropriate for collective bargaining purposes under this Act.

Existing
units
appropriate
for
collective
bargaining

(2) The bargaining units designated in the regulations are appropriate units for collective bargaining purposes under this Act.

Rep-
resentation
vote

4.—(1) Upon an application for representation rights by an employee organization claiming not less than 35 per cent of the employees in the appropriate bargaining unit as members, the Tribunal upon satisfying itself that not less than 35 per cent of such employees are members of the employee organization shall direct that a representation vote be taken.

Result of
vote

(2) If, on the taking of a representation vote, more than 50 per cent of the ballots cast are in favour of the employee organization, the Tribunal shall grant representation rights to the employee organization as the bargaining agent of the employees in the bargaining unit.

Certain
employee
organiza-
tions not to
have rep-
resentation
rights

5. The Tribunal shall not grant representation rights to any employee organization in the formation or administration of which there has been or is, in the opinion of the Tribunal, participation by the employer or any person acting on behalf of the employer of such a nature as to impair the employee organization's fitness to represent the interests of employees in the bargaining unit.

NEGOTIATION OF AGREEMENTS

Bargaining
authority

6. Upon being granted representation rights as bargaining agent of the employees in a bargaining unit under this Act, the employee organization is the exclusive bargaining agent authorized to represent employees in the bargaining unit in bargaining with their employer on rates of remuneration, hours of work, overtime and other premium allowance for work performed, benefits pertaining to time not worked by employees including paid holidays, paid vacations, group life insurance, health insurance and long-term income protection

insurance, the procedures applicable to the processing of grievances, the methods of effecting promotions, demotions, transfers, lay-offs or reappointments and the conditions applicable to leaves of absence for other than any elective public office or political activities or training and development.

7.—(1) Upon being granted representation rights under section 4, the employee organization may give the employer written notice of its desire to bargain with the view to making a collective agreement. Notice of desire to bargain

(2) The parties shall meet within fifteen days from the giving of the notice or within such further period as the parties agree upon and they shall bargain in good faith and make every reasonable effort to make a collective agreement. Obligation to bargain

MEDIATION

8.—(1) Where notice has been given under section 7 or 20, the Tribunal may, when advised in writing by either party that the parties are unable to reach agreement, appoint a mediator who shall confer with the parties and endeavour to effect a collective agreement. Appointment of mediator

(2) If the mediator is unable to effect a collective agreement between the parties within thirty days after the date of his appointment or such longer period as the Tribunal may direct or the parties may agree upon, he shall report thereupon to the Tribunal. Report of mediator if unable to effect agreement

ARBITRATION

9. If the mediator appointed under section 8 is unable to effect a collective agreement or if the Tribunal determines that a mediator should not be appointed, all matters in dispute coming within the scope of collective bargaining under this Act shall be decided by arbitration in accordance with this Act. When matters to be determined by arbitration

10.—(1) A person shall be appointed by the Lieutenant Governor in Council for a renewable term of two years to be the chairman of every board of arbitration established under this Act. Chairman

(2) Within fourteen days after receipt of notice from the Tribunal that the mediator has reported that he is unable to effect a collective agreement or that the Tribunal has determined that a mediator should not be appointed, each of the parties shall appoint to a board of arbitration a member who has indicated his willingness to act. Appointment of members of board by parties

Failure of party to appoint member

(3) Where a party fails to appoint a member of a board within the period of fourteen days mentioned in subsection 2 or 5, the Tribunal, upon the written request of either of the parties shall appoint such member.

Notice of appointment by party

(4) As soon as one of the parties appoints a member to a board, it shall notify in writing the other party and the Tribunal of the name and address of the member appointed.

Vacancies

(5) Within fourteen days after receipt by a party of notice from the Tribunal that the member representing its point of view has ceased to act by reason of resignation, death or otherwise before the board has completed its work, the party shall notify the Tribunal of the person to be appointed to fill the vacancy created thereby.

Replacement of member

(6) If, in the opinion of the Tribunal, a member of a board, other than the chairman, has failed to enter on or to carry on his duties so as to enable it to render a decision within a reasonable time after its establishment, the Tribunal may appoint a member in his place after consulting the party whose point of view was represented by such person.

Replacement of chairman

(7) If the chairman of a board is unable to enter on or to carry on his duties so as to enable it to render a decision within a reasonable time after its establishment, the Lieutenant Governor in Council may appoint a person to act as chairman in his place.

Persons prohibited as members

(8) No person shall be appointed a member of a board who has any pecuniary interest in the matters coming before it or who is acting or has, within a period of six months preceding the date of his appointment, acted as solicitor, counsel or agent of either of the parties.

Procedure

(9) A board shall determine its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions.

Idem

(10) If the members of a board are unable to agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs.

Decision

(11) The decision of a majority of the members of a board is the decision of the board, but, if there is no majority, the decision of the chairman is the decision of the board.

Powers of board

(12) A board has all the powers of the Tribunal,

- (a) to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence on oath or affirmation ;
- (b) to administer oaths and affirmations ; and
- (c) to accept or exclude any oral testimony, document or other thing.

(13) A board may,

Idem

- (a) enter any premises of the employer where work is being done or has been done by the employees or in which the employer carries on business or where anything is taking place or has taken place concerning any of the differences submitted to it or him, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any such thing or any of such differences ; and
- (b) authorize any person to do anything that the board may do under clause *a* and to report thereon to the board.

11.—(1) The board shall examine into and decide on matters that are in dispute within the scope of collective bargaining under this Act. Duty of board

(2) In the conduct of proceedings before it and in rendering a decision in respect of a matter in dispute, the board shall consider any factor that to it appears to be relevant to the matter in dispute including, Factors to be taken into account by board

- (a) the needs of the Crown and its agencies for qualified employees ;
- (b) the conditions of employment in similar occupations outside the public service, including such geographic, industrial or other variations as the board may consider relevant ;
- (c) the desirability to maintain appropriate relationships in the conditions of employment as between classifications in the public service ; and
- (d) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered.

Reference
back to
board

(3) The board may, upon application by either party to a decision within ten days after the release of the decision, subject to affording the parties the opportunity to make representations thereupon to the board, amend, alter or vary the decision where it is shown to the satisfaction of the board that it has failed to deal with any matter in dispute referred to it or that an error is apparent on the face of the decision.

R.S.O. 1970,
c. 25, 1971,
c. 47 not to
apply

(4) *The Arbitrations Act* and *The Statutory Powers Procedure Act, 1971* do not apply to arbitrations under this Act.

Where
agreement
reached

12.—(1) Where, during the bargaining under this Act or during the proceedings before the board, the parties agree on all the matters to be included in a collective agreement, they shall put them in writing and shall execute the document, and thereupon it constitutes a collective agreement under this Act.

Decision
of board

(2) Where, during the bargaining under this Act or during the proceedings before the board, the parties have agreed upon some matters to be included in the collective agreement and they have so notified the board in writing, the board's decision, except as otherwise agreed by the parties, shall be confined to the matters not agreed upon by the parties, and, if, following the rendering of the decision, the parties fail to agree on the terms of a collective agreement within ten days after the release of the decision or within such longer period as may be agreed upon by the parties, the board shall prepare a document giving effect to the agreement of the parties and its decision and shall submit the document to the parties for execution.

Idem

(3) The board shall, in its decision, fix the time within which and the place where the parties shall execute the document.

Failure to
execute
agreement

(4) If the parties or either of them fail to execute the document within such time as is fixed by the decision, the board may order that the document be in effect as though it had been executed by the parties, and the document thereupon constitutes a collective agreement under this Act, effective from the day designated in the order or, failing such designation, from the day upon which the order was made.

Agreement
not to
require
legislative
implementa-
tion

13. No collective agreement or decision of a board shall contain any term which would require either directly or indirectly for its implementation the enactment or amendment of legislation except for the purpose of appropriating moneys for its implementation.

14. Every collective agreement shall be deemed to provide that the employee organization that is a party thereto is recognized as the exclusive bargaining agent for the bargaining unit to which the agreement applies. Employee organization as exclusive bargaining agent

15.—(1) The parties to a collective agreement may provide, subject to the regulations, for the payment by the employees of dues or contributions to the employee organization. Payment of dues to employee organization

(2) Where the Tribunal is satisfied that an employee because of his religious convictions or belief objects to paying dues or contributions to an employee organization, the Tribunal may order that the provisions of the collective agreement pertaining thereto do not apply to such employee and that the employee is not required to pay dues or contributions to the employee organization, provided that amounts equivalent thereto are remitted by the employer to a charitable organization mutually agreed upon by the employee and the employee organization and failing such agreement then to such charitable organization registered as such under Part I of the *Income Tax Act* (Canada) as may be designated by the Tribunal. Where objection to dues because of religious belief
1970-71, c. 63 (Can.)

(3) No collective agreement shall contain a provision which would require, as a condition of employment, membership in the employee organization. Requiring membership in employee organization prohibited

16.—(1) If a collective agreement does not provide for its term of operation, or provides for its operation for an unspecified term, it shall be deemed to provide for a term of two years from the date it commenced to operate. Minimum term of agreements

(2) If the parties fail to agree on the term of a collective agreement, the board shall not provide for a term of less than two years. Agreement not to be less than 2 years unless parties otherwise agree

(3) A collective agreement shall not be terminated by the parties before it ceases to operate in accordance with its provisions or this Act without the consent of the Tribunal on the joint application of the parties. Early termination of collective agreements

17.—(1) Every collective agreement shall be deemed to provide that it is the exclusive function of the employer to manage including the right to determine employment, appointment, complement, organization, work methods and procedures, kinds and location of equipment, discipline and termination of employment, assignment, classification, job evaluation system, merit system, training and development, appraisal, superannuation and the principles and standards governing promotion, demotion, transfer, lay-off, reappoint-

Exclusive functions of employer

ment, and that such matters will not be the subject of collective bargaining nor come within the jurisdiction of a board.

Grievances

(2) An employee claiming,

- (a) that his position has been improperly classified;
- (b) that he has been appraised contrary to the governing principles and standards;
- (c) that, contrary to the governing principles and standards or to the methods of effecting promotions, demotions, transfers, lay-offs or reappointments provided in the collective agreement, he has been promoted, demoted, transferred or laid off or has not been reappointed; or
- (d) that he has been disciplined or terminated from his employment without just cause,

may process such matter in accordance with the grievance procedure provided in the collective agreement, and failing final determination under such procedure, the matter may be processed in accordance with the procedures for final determination applicable under *The Public Service Act* and the regulations thereunder.

R.S.O. 1970,
c. 386

Arbitration
of disputes
under
agreement

18.—(1) Every collective agreement shall be deemed to provide that in the event the parties are unable to effect a settlement of any differences between them arising from the interpretation, application, administration or alleged contravention of the agreement, including any question as to whether a matter is arbitrable, such matter may be referred for arbitration to the Public Service Grievance Board and the Board, after giving full opportunity to the parties to present their evidence and to make their submissions, shall decide the matter and its decision is final and binding upon the parties and the employees covered by the agreement.

Powers

(2) The Public Service Grievance Board has the same powers as a board of arbitration under subsections 12 and 13 of section 10.

Penalty
where
employee
disciplined,
etc.

(3) Where the Public Service Grievance Board determines that a disciplinary penalty or dismissal of an employee is excessive, it may substitute such other penalty for the discipline or dismissal as it considers just and reasonable in all the circumstances.

Enforce-
ment of
arbitration
decisions

(4) Where a party or an employee has failed to comply with any of the terms of the decision of the Public Service Grievance Board, any party or employee affected by the

decision may, after the expiration of fourteen days from the date of the release of the decision or the date provided in the decision for compliance, whichever is later, file in the office of the Registrar of the Supreme Court a copy of the decision, exclusive of the reasons therefor, in the prescribed form, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such.

OPERATION OF AGREEMENTS

19.—(1) A collective agreement is, subject to and for the purposes of this Act, binding upon the employer, upon the employee organization that is a party thereto and upon the employees in the bargaining unit covered by the agreement. Binding effect of agreement

(2) Subsection 1 applies to every collective agreement covering a bargaining unit to which subsection 2 of section 3 applies, which is in operation upon the coming into force of this Act. Application of subs. 1 to existing agreements

20. Either party to a collective agreement desiring to bargain with a view to the renewal, with or without modifications, of the agreement then in operation or the making of a new agreement, may, only during the period between the ninetieth and one hundred and twentieth days prior to the termination of the agreement, give notice in writing thereof to the other party accompanied by a statement in writing of its proposed modifications, if any. Notice of desire to bargain for renewal or new agreement

21.—(1) Where notice has been given by the employee organization under section 7, the conditions then in effect applicable to or binding upon the employer, the employee organization or the employees which are subject to collective bargaining within the meaning of this Act shall not be altered without the consent of the employer, the employee organization or the employees, as the case may be. Conditions in effect when notice to bargain given not to be altered

(2) Where notice has been given by either party to a collective agreement under section 20, except as altered by an agreement in writing of the parties, the terms and provisions of the agreement then in operation shall continue to operate until a new agreement entered into pursuant to the provisions of this Act is in operation. Agreement to continue after notice to bargain for renewal or new agreement

TERMINATION OF REPRESENTATION RIGHTS

22.—(1) If an employee organization does not enter into a collective agreement with the employer within one year after being granted representation rights or fails to give notice of its intention to bargain as provided under section 20 and no such notice has been given by the employer, the employer or Application for termination of representation rights

any employee in the bargaining unit concerned may apply to the Tribunal for a declaration that the employee organization no longer represents the employees in the bargaining unit.

Idem

(2) Any employee in the bargaining unit covered by a collective agreement may apply to the Tribunal for a declaration that the employee organization no longer represents the employees in the bargaining unit only during the period between the ninetieth and one hundred and twentieth days prior to the termination of the agreement.

Representa-
tion vote

(3) Upon the application under subsection 2, the Tribunal shall ascertain the number of employees in the bargaining unit at the time the application was made and if a majority of the employees in the bargaining unit have voluntarily signified in writing that they no longer wish to be represented by the employee organization, the Tribunal shall conduct a representation vote to determine whether or not the employees desire that the right of the employee organization to bargain on their behalf be terminated.

Result
of vote

(4) If, on the taking of the representation vote, more than 50 per cent of the ballots cast are in opposition to the employee organization, the Tribunal shall declare that the employee organization that was granted representation rights or that was or is a party to the collective agreement, as the case may be, no longer represents the employees in the bargaining unit.

Effect of
termination

(5) Upon the Tribunal declaring that the employee organization no longer represents the employees in the bargaining unit, the employee organization ceases to have such representation rights and any collective agreement in operation between the employee organization and the employer that is binding upon the employees in the bargaining unit ceases to operate and any decision of a board applying to the bargaining unit ceases to have effect.

Termination
of rights
where
employee
organization
desires or
has ceased
to act

23.—(1) Where the Tribunal is advised by an employee organization that it wishes to be released of its representation rights in respect of a bargaining unit or where the Tribunal, upon application by the employer or any employee in a bargaining unit represented by an employee organization, determines that the employee organization has ceased to act on behalf of the employees, the Tribunal shall declare that the employee organization no longer represents the employees in the bargaining unit.

Where lack
of qualifica-
tion or
obtained
by fraud

(2) Where the Tribunal,

(a) upon application thereto by the employer or any employee concerned, determines that an employee

organization would not, if it were applying for representation rights in respect of a bargaining unit, be granted such rights by the Tribunal by reason of failure to qualify under clause *j* of section 1; or

- (b) is satisfied that an employee organization has obtained representation rights in respect of a bargaining unit by fraud,

the Tribunal shall declare that the employee organization no longer represents the employees in the bargaining unit.

(3) Upon the Tribunal declaring that the employee organization no longer represents the employees in the bargaining unit, the employee organization ceases to have such representation rights and any collective agreement in operation between the employee organization and the employer that is binding upon the employees in the bargaining unit ceases to operate and any decision made by a board applying to the bargaining unit ceases to have effect. Effect of termination

PROHIBITIONS

24. No person shall attempt at the employee's place of employment to persuade him to become or refrain from becoming a member of an employee organization. Persuasion at place of work

25. The employer shall not cause a lock-out, and an employee shall not strike. Strike and lock-out prohibited

26. Nothing in this Act prohibits any suspension or discontinuance for cause of an employer's operations or the quitting of employment for cause if the suspension, discontinuance or quitting does not constitute a lock-out or strike. Suspension or quitting for cause not to constitute lock-out or strike

27.—(1) No person who is acting on behalf of the employer shall participate in or interfere with the selection, formation or administration of an employee organization or the representation of employees by such an organization, but nothing in this section shall be deemed to deprive the employer or any person acting on behalf of the employer of his freedom to express his views so long as he does not use coercion, intimidation, threats, promises or undue influence. Interference with employee organization prohibited

(2) The employer or any person acting on behalf of the employer shall not, Interference with employee's rights prohibited

- (a) refuse to employ or to continue to employ or discriminate against a person with regard to employment

or any term or condition of employment because the person is exercising any right under this Act or is or is not a member of an employee organization;

- (b) impose any condition on an appointment or in a contract of employment that seeks to restrain an employee or a person seeking employment from becoming a member of an employee organization or exercising any right under this Act;
- (c) seek by intimidation, by threat of dismissal or by any other kind of threat or by the imposition of a pecuniary or any other penalty or by any other means to compel an employee to become or refrain from becoming or to continue or cease to be a member of an employee organization, or to refrain from exercising any other right under this Act; or
- (d) refuse to employ or continue to employ or discriminate against a person with regard to employment only because the person refused to make a contribution or expenditure to or on behalf of any political party or to or on behalf of a candidate for public office,

but no person shall be deemed to have contravened this subsection by reason of any act or thing done or omitted in relation to a person employed or proposed to be employed in a managerial or confidential capacity.

Intimida-
tion and
coercion

(3) No person or employee organization shall seek by intimidation or coercion to compel any person to become or refrain from becoming or to continue to be or to cease to be a member of an employee organization or to refrain from exercising any other rights under this Act or from performing any obligations under this Act.

Duty of
fair rep-
resentation

28. An employee organization shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employees, whether members of the employee organization or not.

Authorizing
or
counselling
strikes
prohibited

29. No employee organization shall declare or authorize a strike of employees, and no officer or representative of an employee organization shall counsel, procure or support the declaration or authorization of a strike of employees or the participation of employees in a strike.

ENFORCEMENT

30.—(1) The Tribunal may appoint an investigator with ^{Inquiry by} ~~investigator~~ authority to inquire into a complaint that,

- (a) a person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment ;
- (b) a person has been suspended, expelled or penalized in any way contrary to section 34 ;
- (c) an employee organization, employer or any person or persons has acted in any way contrary to section 28 or clause b of subsection 2 of section 35.

(2) The investigator shall forthwith inquire into the ^{Duties} complaint and endeavour to effect a settlement of the matter.

(3) The investigator shall report the results of his inquiry ^{Report} and endeavours to the Tribunal.

(4) Where an investigator is unable to effect a settlement ^{Inquiry by} ~~Tribunal~~ of the matter or where the Tribunal in its discretion considers it advisable to dispense with an inquiry by an investigator, the Tribunal may inquire into the complaint and,

- (a) if the Tribunal is satisfied that the person concerned has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment by the employer or by any person or employee organization it shall determine what, if anything, the employer, person or employee organization shall do or refrain from doing with respect thereto, and such determination may include the hiring or reinstatement in employment of the person concerned, with or without compensation or compensation in lieu of hiring or reinstatement for loss of earnings and other employment benefits for which compensation may be assessed against the employer, person or employee organization, jointly or severally, and the employer, person or employee organization shall, notwithstanding the provisions of any collective agreement, do or abstain from doing anything required of them or any of them by the determination ;

- (b) if the Tribunal is satisfied that the person concerned has been suspended, expelled or penalized in any way contrary to section 34 it shall so declare, and thereupon the suspension, expulsion or penalty is void; or
- (c) if the Tribunal is satisfied that the employee organization, employer, person or employee concerned has acted contrary to section 28 or clause *b* of subsection 2 of section 35, it shall determine what, if anything, the employee organization, employer, person or employee shall do or refrain from doing with respect thereto, and such determination may include compensation for loss of earnings and other employment benefits and the employee organization, employer, person or employee shall, notwithstanding the provisions of any collective agreement, do or abstain from doing anything required of them or it.

Effect of
settlement

(5) Where the matter complained of has been settled, whether through the endeavours of the investigator or otherwise, and the terms of the settlement have been put in writing and signed by the parties or their representatives, the settlement is binding upon the parties, the employee organization, employer, person or employee who have agreed to the settlement and shall be complied with according to its terms, and a complaint that the employee organization, employer, person or employee who has agreed to the settlement has not complied with the terms of the settlement shall be deemed to be a complaint under clause *a*, *b* or *c* of subsection 1, as the case may be.

Declaration
of unlawful
strike

31. Where it is alleged that an employee organization has declared or authorized a strike or that employees are engaging in a strike, the employer may apply to the Tribunal for a declaration that such action would be or is contrary to section 25, and the Tribunal, after affording an opportunity to the employer and the employee organization or to the employees, as the case may be, to be heard on the application, may make such a declaration.

Declaration
of unlawful
lock-out

32. Where it is alleged that the employer has declared or authorized a lock-out or is engaging in a lock-out, any of the employees directly affected thereby or the employee organization concerned may apply to the Tribunal for a declaration that such action was or is contrary to section 25, and the Tribunal after affording an opportunity to the employer and the employees or employee organization, as the case may be, to be heard on the application, may make such a declaration.

33. No person shall do any act if he knows or ought to know that, as a probable and reasonable consequence of the act, another person or persons will take any action contrary to section 25. Causing unlawful strikes, lock-outs

34. No employee organization shall suspend, expel or penalize in any way a member because he has refused to engage in or to continue to engage in any action contrary to section 25. Refusal to engage in unlawful strike

35.—(1) The employer or any person acting on behalf of the employer shall not, Protection of witnesses' rights

- (a) refuse to employ or continue to employ a person;
- (b) threaten dismissal or otherwise threaten a person;
- (c) discriminate against a person in regard to employment or a term or condition of employment; or
- (d) intimidate or coerce or impose a pecuniary or other penalty on a person,

because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceeding under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act.

(2) No employee organization or person acting on behalf of an employee organization shall, Idem

- (a) discriminate against a person in regard to employment or a term or condition of employment; or
- (b) intimidate or coerce or impose a pecuniary or other penalty on a person,

because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceeding under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act.

TRIBUNAL

36.—(1) There shall be a tribunal to be known as the Ontario Public Service Labour Relations Tribunal. Tribunal established

- Composition** (2) The Tribunal shall be composed of one or more adjudicators appointed by the Lieutenant Governor in Council as the Lieutenant Governor in Council considers appropriate.
- Chairman** (3) The Lieutenant Governor in Council shall designate one adjudicator to be the chairman.
- Vacancy** (4) A vacancy in the membership of the Tribunal for any cause may be filled by the Lieutenant Governor in Council.
- Quorum** (5) One adjudicator constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Tribunal.
- Assignment of adjudicators** (6) The chairman shall from time to time assign the adjudicators of the Tribunal to its various sittings and designate one as presiding member for each sitting.
- Decision** (7) Where the Tribunal at any sitting is composed of one adjudicator, his decision constitutes a decision of the Tribunal, and, where the Tribunal at any sitting is composed of more than one adjudicator, a decision of a majority of the adjudicators, constitutes a decision of the Tribunal, provided that in the event of a tie vote, the presiding member has a casting vote.
- Jurisdiction** **37.** The Tribunal has exclusive jurisdiction to exercise the powers conferred upon it by this Act and to determine all questions of fact or law that arise in any matter before it, and, except as otherwise provided in this Act, the action or decision of the Tribunal thereon is final and binding for all purposes, but nevertheless the Tribunal may at any time, if it considers it advisable to do so, reconsider any decision, order, direction, declaration or ruling made by it and vary or revoke any such decision, order, direction, declaration or ruling.
- Question as to whether person an employee** **38.** If, in the course of bargaining for a collective agreement or during the period of operation of a collective agreement, a question arises as to whether a person is an employee, the question may be referred to the Tribunal and its decision thereon is final and binding for all purposes.
- Powers and duties of Tribunal** **39.—**(1) The Tribunal shall exercise such powers and perform such duties as are conferred upon it by this Act, including power,
- (a) to enter any premises of the employer where work is being or has been done by the employees or in which the employer carries on business and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any matter;

- (b) to enter upon the premises of the employer and conduct representation votes during working hours and give such directions in connection with the vote as it considers necessary;
- (c) to authorize any person to do anything that the Tribunal may do under clauses *a* and *b* and to report to the Tribunal thereon;
- (d) to authorize an adjudicator to inquire into any application, request, complaint, matter or thing within the jurisdiction of the Tribunal, or any part of any of them, and to report to the Tribunal thereon;
- (e) to bar an unsuccessful applicant for any period not exceeding ten months from the date of the dismissal of the unsuccessful application, or to refuse to entertain a new application by an unsuccessful applicant or by any of the employees affected by an unsuccessful application or by any person or employee organization representing such employees within any period not exceeding ten months from the date of the dismissal of the unsuccessful application;
- (f) to determine the form in which and the time as of which evidence of membership in an employee organization or of objection by employees to representation rights of an employee organization or of signification by employees that they no longer wish to be represented by an employee organization shall be presented to the Tribunal on an application for representation rights or for a declaration terminating representation rights, and to refuse to accept any evidence of membership or objection or signification that is not presented in the form and as of the time so determined; and
- (g) to administer oaths and affirmations.

(2) Notwithstanding sections 2 and 22, where an application has been made for representation rights of an employee organization as bargaining agent for employees in a bargaining unit or for a declaration that the employee organization no longer represents the employees in a bargaining unit and a final decision of the application has not been issued by the Tribunal at the time a subsequent application for such representation rights or for such a declaration is made with respect to any of the employees affected by the original application, the Tribunal may, Subsequent applications for representation rights, etc

- (a) treat the subsequent application as having been made on the date of the making of the original application;
- (b) postpone consideration of the subsequent application until a final decision has been issued on the original application and thereafter consider the subsequent application but subject to any final decision issued by the Tribunal on the original application; or
- (c) refuse to entertain the subsequent application.

Deter-
mination of
membership

(3) Where the Tribunal is satisfied that an employee organization has an established practice of admitting persons to membership without regard to the eligibility requirements of its charter, constitution or by-laws, the Tribunal in determining whether a person is a member of an employee organization, need not have regard for such eligibility requirements provided that any person so admitted to membership is accorded full membership status for all purposes by the employee organization.

Where choice
between
two or more
employee
organizations

(4) Where, in the taking of a representation vote, the Tribunal determines that the employees are to be given a choice between two or more employee organizations,

- (a) the Tribunal may include on a ballot a choice indicating that an employee does not wish to be represented by an employee organization; and
- (b) the Tribunal, when it decides to hold such additional representation votes as may be necessary, may eliminate from the choice on the ballot the choice from the previous ballot that has obtained the lowest number of votes cast.

Stated case

40.—(1) The Tribunal may of its own motion and shall upon the request of any party state a case in writing to the Court of Appeal upon any question of law.

Court to
hear and
determine
stated case

(2) Where a case is stated under this section, the Court of Appeal shall hear and determine in a summary manner the question raised.

Proceedings
stayed

(3) Pending the decision of the Court of Appeal on a case stated under this section, no further proceedings shall be taken by the Tribunal with respect to the subject-matter of the stated case but it may continue its inquiry into matters not in issue in the stated case.

41.—(1) The Tribunal shall determine its own practice ^{Procedure} and procedure but shall afford to the parties to any proceedings an opportunity for a hearing to present their evidence and to make their submissions, and the Tribunal may, subject to the approval of the Lieutenant Governor in Council, make rules, not inconsistent with the provisions of this Act, governing its practice and procedure and the exercise of its powers.

(2) *The Statutory Powers Procedure Act, 1971*, except sub-^{Application of 1971, c. 47} section 2 of section 14, applies to the proceedings of the Tribunal.

OFFENCES

42.—(1) Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction <sup>Contra-
vention of
Act by
person</sup> is liable to a fine of not more than \$500 for each day upon which such contravention occurs or continues.

(2) Every employee organization that contravenes any provision of this Act is guilty of an offence and on summary conviction <sup>Contra-
vention of
Act by
employee
organization</sup> is liable to a fine of not more than \$5,000 for every day upon which such contravention occurs or continues.

(3) If an employee organization is guilty of an offence <sup>When
officers also
guilty of
offence</sup> under this Act, every officer or representative thereof who assented to the commission of the offence shall be deemed to be a party to and guilty of the offence and is liable to a fine under subsection 1 as if he had been convicted of an offence under subsection 1.

(4) An information in respect of a contravention of any <sup>Informa-
tion</sup> provision of this Act may be for one or more offences and no information, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences.

(5) No prosecution for an offence under this Act shall ^{Consent} be instituted except with the consent in writing of the Tribunal, which may only be granted after affording an opportunity to the parties or to the employees, as the case may be, to be heard.

43. A prosecution for an offence may be brought against an employee organization in the name of that organization, <sup>Prosecution
of employee
organization</sup> and, for the purposes of any such prosecution, an employee organization shall be deemed to be a person, and any act or thing done or omitted by an officer or representative of an employee organization within the apparent scope of his

authority to act on behalf of the employee organization shall be deemed to be an act or thing done or omitted by the employee organization.

GENERAL

Trusteeship
over
employee
organization

44.—(1) If the autonomy of an employee organization is suspended under the constitution and by-laws of its parent body, written notice thereof shall be given the Tribunal by the parent body within thirty days of the commencement of such suspension together with a statement in the prescribed form, verified by the affidavit of its principal officers, setting out the terms under which supervision or control is to be exercised and it shall, upon the direction of the Tribunal, file such additional information as the Tribunal from time to time may require.

Duration of
trusteeship

(2) Any such supervision or control shall not continue for more than twelve months from the date of such suspension but such supervision or control may be continued for such further period as the Tribunal may prescribe.

Information

45.—(1) Every employee organization having representation rights under this Act shall, within three months after the coming into force of this Act and thereafter within three months after the end of each calendar year, file a statement with the Tribunal, certified as to the truth and accuracy thereof by the president and the treasurer, containing the following particulars:

- (a) the name of the organization;
- (b) the address of the headquarters of the organization in Ontario to which communications for the purposes of this Act may be directed;
- (c) the constitution and by-laws of the organization;
- (d) the name and address of each officer of the organization and the position held by each such officer;
- (e) the name and address of each officer and employee of the organization resident in Canada (other than a person performing primarily clerical or stenographic duties), the position held by each such officer and employee and the manner in which he was elected or appointed;
- (f) a financial statement for the latest complete fiscal year or, if the employee organization has not been in

existence for a complete fiscal year, for the period it has been in existence, consisting of,

- (i) a balance sheet showing the assets and liabilities of the organization made up for such fiscal year, and
- (ii) a statement of income and expenditure for such fiscal year, in such form and containing such particulars and other information relating to the financial position of the organization as may be prescribed by the regulations.

(2) Every financial statement shall be certified by a person licensed under *The Public Accountancy Act* and shall be accompanied by an affidavit completed by the president and treasurer of the employee organization affirming that throughout the fiscal period reported upon the employee organization was at all times qualified as an employee organization under this Act. Financial statement R.S.O. 1970, c. 373

(3) An employee organization having representation rights under this Act shall publish for its members its financial statement in the same form and within the same periods prescribed under subsections 1 and 2. Publication of financial statement

(4) Each party to a collective agreement shall forthwith after it is made, file one copy thereof with the Tribunal. Copy of agreement to be filed with Tribunal

46. Any action or proceeding to restrain a contravention or otherwise enforce the provisions of this Act may be commenced in the Supreme Court after notice has been given to the employees affected by posting or publication in such manner as the Tribunal may direct, and in the case of an employee organization by service thereupon at the address shown in the statement required pursuant to subsection 1 of section 45. Enforcement of Act

47. No member of the Tribunal or of a board or of the Public Service Grievance Board and no person appointed thereby or a mediator appointed under this Act shall be required to give evidence in any civil action, suit or other proceeding respecting information obtained in the discharge of his duties under this Act. Protection against giving evidence in civil actions

48.—(1) For the purposes of this Act and of any proceedings taken under it, any notice or communication, except in relation to a final decision or order of the Tribunal, sent through Her Majesty's mails shall be presumed, unless the contrary is proved, to have been received by the addressee in the ordinary course of mail. Mailed notices

Time of
making
certain
applications

(2) An application for representation rights or for a declaration that an employee organization no longer represents the employees in a bargaining unit, if sent by registered mail addressed to the Tribunal at Toronto, shall be deemed to have been made on the date on which it was so mailed.

Time of
release of
documents

(3) A decision, determination, report, interim order, order, direction, declaration or ruling of the board, a notice from the Tribunal that it does not deem it advisable to appoint a mediator or a decision of a board,

- (a) if sent by mail to the person, employer or employee organization concerned addressed to him or it at his or its last-known address, shall be deemed to have been released on the second day after the day on which it was so mailed ; or
- (b) if delivered to a person, the employer or employee organization concerned at his or its last-known address, shall be deemed to have been released on the day next after the day on which it was so delivered.

Secrecy as
to union
membership

49.—(1) The records of an employee organization relating to membership or any records that may disclose whether a person is or is not a member of an employee organization or does or does not desire to be represented by an employee organization produced in a proceeding before the Tribunal is for the exclusive use of the Tribunal and its officers and shall not, except with the consent of the Tribunal, be disclosed, and no person shall, except with the consent of the Tribunal, be compelled to disclose whether a person is or is not a member of an employee organization or does or does not desire to be represented by an employee organization.

Non-
disclosure

(2) No information or material furnished to or received by a mediator under this Act shall be disclosed, except to the Tribunal, unless otherwise authorized by the party providing the information or material.

Idem

(3) No report of a mediator shall be disclosed except to the Tribunal.

Competency
as witness

(4) A mediator appointed under this Act is not a competent or compellable witness in proceedings before a court or other tribunal respecting any information, material or report mentioned in subsection 2 or 3, or respecting any information or material furnished to or received by him, or any statement made to or by him in an endeavour to effect a collective agreement.

(5) The chairman or any other member of a board of arbitration is not a competent or compellable witness in proceedings before a court or other tribunal respecting,

- (a) any information or material furnished to or received by him;
- (b) any evidence or representation submitted to him;
or
- (c) any statement made by him,

in the course of his duties under this Act.

50. No proceedings under this Act are invalid by reason of any defect of form or any technical irregularity and no such proceedings shall be quashed or set aside if no substantial wrong or miscarriage of justice has occurred. ^{Defects in form; technical irregularities}

51. The Lieutenant Governor in Council may make regulations, ^{Regulations}

- (a) designating the body to represent any agency of the Crown for the purpose of clause *k* of section 1;
- (b) prescribing the form and content of a statement of income and expenditure of an employee organization;
- (c) providing for and fixing the remuneration and expenses of the chairman and other members of a board and the chairman and other members of the Tribunal;
- (d) designating,
 - (i) units of employees that are appropriate bargaining units for collective bargaining purposes under this Act, and
 - (ii) designating the employee organization that shall have representation rights in relation to each of such bargaining units,

upon the day this Act comes into force;

- (e) prescribing forms and providing for their use.

52. The moneys required by the Crown for the purposes of this Act shall, until the end of March, 1973, be paid out ^{Moneys required for Act}

of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

Commence-
ment

53. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

54. This Act may be cited as *The Crown Employees Collective Bargaining Act, 1972*.

An Act to provide for
Collective Bargaining for Crown Employees

1st Reading

May 4th, 1972

2nd Reading

3rd Reading

THE HON. C. MACNAUGHTON
Chairman, Management Board of Cabinet

(Government Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to provide for
Collective Bargaining for Crown Employees**

THE HON. C. MACNAUGHTON
Chairman, Management Board of Cabinet

(Reprinted as amended by the Administration of Justice Committee)

EXPLANATORY NOTE

A Bill to formalize collective bargaining procedures for Crown employees was introduced in November, 1970 (Bill 217) but was not taken beyond first reading.

In the intervening period, submissions were received from, and discussions held with, all the existing bargaining representatives of Crown employees and as a result of such submissions and discussions, significant changes were made.

The purpose of the present Bill is similar to that of the previous Bill, and is to extend and regulate collective bargaining procedures in the government service under the authority of a Tribunal having power to decide matters concerning representation of employees by bargaining agents and to protect employees against unfair labour practices. The Bill provides procedures for the resolution of grievances arising out of the application or interpretation of collective agreements, as well as for the settlement of bargaining disputes.

The principal changes from Bill 217 are:

1. Identification of and a considerable broadening of those matters which are bargainable. (See Sections 6 and 17.)
2. Penalties for contravention of the Act are made applicable to representatives of the employer as well as to employees. (See Section 42.)
3. Representation rights can be achieved on receiving 50 per cent of the votes cast instead of 50 per cent of the eligible voters. (See Section 4 (2).)
4. Deletion of the right of the Lieutenant Governor in Council to exclude any matter or any position or classification from the scope of collective bargaining.
5. The members of the Ontario Provincial Police Force and the employees of colleges of applied arts and technology are removed from the scope of the Act.

An Act to provide for Collective Bargaining for Crown Employees

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

- (a) “adjudicator” means a member of the Ontario Public Service Labour Relations Tribunal;
- (b) “bargaining agent” means an employee organization that has representation rights under this Act;
- (c) “bargaining unit” means a unit of employees established for collective bargaining in accordance with this Act;
- (d) “board” means a board of arbitration established under this Act;
- (e) “collective agreement” means an agreement in writing between the employer and an employee organization covering terms and conditions of employment;
- (f) “Crown” means Her Majesty in right of Ontario;
- (g) “employee” means a Crown employee as defined in *The Public Service Act* but does not include,
 - (i) a member of the Ontario Provincial Police Force,
 - (ii) an employee of a college of applied arts and technology,
 - (iii) a person employed in a managerial or confidential capacity,

R.S.O. 1970,
c. 386

- (iv) a person who is a member of the architectural, dental, engineering, legal or medical professions, entitled to practise in Ontario and employed in a professional capacity,
 - (v) a person who is employed on a casual or temporary basis unless he has been so employed continuously for a period of six months, or more,
 - (vi) a person engaged under contract in a professional or other special capacity, or for a project of a non-recurring kind, or on a temporary work assignment arranged by the Civil Service Commission in accordance with its program for providing temporary help,
 - (vii) a person engaged and employed outside Ontario, or
 - (viii) a person employed in the office of the Provincial Auditor or of the Speaker, Deputy Speaker or Clerk of the Assembly;
- (h) "employee organization" means an organization of employees formed for the purpose of regulating relations between the employer and employees under this Act, but does not include such an organization of employees that,
- (i) receives from any of its members who are employees any money for activities carried on by or on behalf of any political party,
 - (ii) handles or pays in its own name on behalf of members who are employees any money for activities carried on by or on behalf of any political party,
 - (iii) requires as a condition of membership therein the payment by any of its members who are employees of any money for activities carried on by or on behalf of any political party,
 - (iv) supports or requires its members who are employees otherwise to support any political party, or
 - (v) discriminates against any employee because of age, sex, race, national origin, colour or religion;

- (i) "employer" means the Crown in right of Ontario;
- (j) "lock-out" includes the closing of a place of employment, a suspension of work or a refusal by the employer to continue to employ a number of employees with a view to compel or induce the employees, or to aid another employer to compel or induce his employees, to refrain from exercising any rights or privileges under this Act or to agree to provisions or changes in provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, the employee organization or the employees;
- (k) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (l) "party" means the employee organization that is the bargaining agent for a bargaining unit, on the one hand, and the employer, on the other hand, and "parties" means the two of them;
- (m) "person employed in a managerial or confidential capacity" means a person who,
 - (i) is employed in a position confidential to the Lieutenant Governor, a Minister of the Crown, a judge of a provincial court, the deputy head of a ministry of the Government of Ontario or the chief executive officer of any agency of the Crown,
 - (ii) is involved in the formulation of organization objectives and policy in relation to the development and administration of programs of the Government or an agency of the Crown or in the formulation of budgets of the Government or an agency of the Crown,
 - (iii) spends a significant portion of his time in the supervision of employees,
 - (iv) is required by reason of his duties or responsibilities to deal formally on behalf of the employer with a grievance of an employee,
 - (v) adjudicates or determines claims for compensation which are made pursuant to the provisions of any statute,

(vi) is employed in a position confidential to any person described in subclause i, ii, iii, iv or v,

(vii) is employed in a confidential capacity in matters relating to employee relations including a person employed in a clerical, stenographic or secretarial position in the Civil Service Commission or in a personnel office in a ministry or agency of the Government of Ontario, or

(viii) is not otherwise described in subclauses i to vii but who in the opinion of the Tribunal should not be included in a bargaining unit by reason of his duties and responsibilities to the employer;

R.S.O. 1970,
c. 386

(n) "public servant" means a public servant as defined in *The Public Service Act* and "public service" has a corresponding meaning;

(o) "Public Service Grievance Board" means the Public Service Grievance Board established under *The Public Service Act*;

(p) "regulations" means the regulations made under this Act;

(q) "strike" includes a cessation of work, a refusal to work or to continue to work by employees in combination or in concert or in accordance with a common understanding, or a slow-down or other concerted activity on the part of employees designed to restrict or interfere with work or services;

(r) "Tribunal" means the Ontario Public Service Labour Relations Tribunal.

Employer
representa-
tive

(2) The employer may be represented, in the case of the public service, by the Management Board of Cabinet, and in the case of an agency of the Crown, by the body designated by the regulations.

No loss of
employment
by lock-out,
etc.

(3) No employee shall be deemed to have ceased to be employed by reason only of his ceasing to work for the employer as a result of a lock-out contrary to section 25 or by reason only of his being dismissed by the employer contrary to this Act or to a collective agreement.

REPRESENTATION RIGHTS

2.—(1) Where no employee organization has representation rights in respect of a unit of employees that the employee organization claims to be appropriate for collective bargaining, an employee organization may apply at any time to the Tribunal for representation rights as bargaining agent of the employees in such unit. Application for representation rights

(2) Where a collective agreement is for a term of not more than three years, an employee organization may apply to the Tribunal for representation rights as bargaining agent of the employees in the bargaining unit only during the period between the ninetieth and one hundred and twentieth days prior to the termination of the agreement. Idem

(3) Where a collective agreement is for a term of more than three years, an employee organization may apply to the Tribunal for representation rights as bargaining agent of the employees in the bargaining unit only during the thirty-day period immediately prior to the last ninety days, Idem

(a) of the operation of the third year of the agreement ;

(b) of each year that the agreement continues to operate after the third year ; or

(c) of the termination of the agreement.

(4) Every application for representation rights shall be accompanied by the financial statement of the employee organization for the latest complete fiscal year or, if the employee organization has not been in existence for a complete fiscal year, for the period it has been in existence, and an affidavit both in the same form as required under subsections 1 and 2 of section 45. Application to include financial statement

(5) Every employee organization designated by the regulations shall be deemed to have been granted representation rights under this Act upon the coming into force of this Act in relation to such bargaining unit or units as are designated by the regulations. Representation rights on coming into force of Act

3.—(1) Upon an application for representation rights, the Tribunal shall, subject to subsection 2, determine the unit of employees that is appropriate for collective bargaining purposes under this Act. Tribunal to establish appropriate unit of employees

(2) The bargaining units designated in the regulations are appropriate units for collective bargaining purposes under this Act. Existing units appropriate for collective bargaining

Rep-
resentation
vote

4.—(1) Upon an application for representation rights by an employee organization claiming not less than 35 per cent of the employees in the appropriate bargaining unit as members, the Tribunal upon satisfying itself that not less than 35 per cent of such employees are members of the employee organization shall direct that a representation vote be taken.

Result of
vote

(2) If, on the taking of a representation vote, more than 50 per cent of the ballots cast are in favour of the employee organization, the Tribunal shall grant representation rights to the employee organization as the bargaining agent of the employees in the bargaining unit.

Certain
employee
organiza-
tions not to
have rep-
resentation
rights

5. The Tribunal shall not grant representation rights to any employee organization in the formation or administration of which there has been or is, in the opinion of the Tribunal, participation by the employer or any person acting on behalf of the employer of such a nature as to impair the employee organization's fitness to represent the interests of employees in the bargaining unit.

NEGOTIATION OF AGREEMENTS

Bargaining
authority

6. Upon being granted representation rights, the employee organization is authorized to bargain with the employer on terms and conditions of employment, except as to matters that are exclusively the function of the employer under subsection 1 of section 17, and, without limiting the generality of the foregoing, including rates of remuneration, hours of work, overtime and other premium allowance for work performed, the mileage rate payable to an employee for miles travelled when he is required to use his own automobile on the employer's business, benefits pertaining to time not worked by employees including paid holidays, paid vacations, group life insurance, health insurance and long-term income protection insurance, the procedures applicable to the processing of grievances, the methods of effecting promotions, demotions, transfers, layoffs or reappointments and the conditions applicable to leaves of absence for other than any elective public office or political activities or training and development.

Notice of
desire to
bargain

7.—(1) Upon being granted representation rights under section 4, the employee organization may give the employer written notice of its desire to bargain with the view to making a collective agreement.

Obligation
to bargain

(2) The parties shall meet within fifteen days from the giving of the notice or within such further period as the parties agree upon and they shall bargain in good faith and make every reasonable effort to make a collective agreement.

MEDIATION

8.—(1) Where notice has been given under section 7 or 20, the Tribunal may, when advised in writing by either party that the parties are unable to reach agreement, appoint a mediator who shall confer with the parties and endeavour to effect a collective agreement. Appointment of mediator

(2) If the mediator is unable to effect a collective agreement between the parties within thirty days after the date of his appointment or such longer period as the Tribunal may direct or the parties may agree upon, he shall report thereupon to the Tribunal. Report of mediator if unable to effect agreement

ARBITRATION

9. If the mediator appointed under section 8 is unable to effect a collective agreement or if the Tribunal determines that a mediator should not be appointed, all matters in dispute coming within the scope of collective bargaining under this Act shall be decided by arbitration in accordance with this Act. When matters to be determined by arbitration

10.—(1) A person shall be appointed by the Lieutenant Governor in Council for a renewable term of two years to be the chairman of every board of arbitration established under this Act. Chairman

(2) Within fourteen days after receipt of notice from the Tribunal that the mediator has reported that he is unable to effect a collective agreement or that the Tribunal has determined that a mediator should not be appointed, each of the parties shall appoint to a board of arbitration a member who has indicated his willingness to act. Appointment of members of board by parties

(3) Where a party fails to appoint a member of a board within the period of fourteen days mentioned in subsection 2 or 5, the Tribunal, upon the written request of either of the parties shall appoint such member. Failure of party to appoint member

(4) As soon as one of the parties appoints a member to a board, it shall notify in writing the other party and the Tribunal of the name and address of the member appointed. Notice of appointment by party

(5) Within fourteen days after receipt by a party of notice from the Tribunal that the member representing its point of view has ceased to act by reason of resignation, death or otherwise before the board has completed its work, the Vacancies

party shall notify the Tribunal of the person to be appointed to fill the vacancy created thereby.

**Replacement
of member**

(6) If, in the opinion of the Tribunal, a member of a board, other than the chairman, has failed to enter on or to carry on his duties so as to enable it to render a decision within a reasonable time after its establishment, the Tribunal may appoint a member in his place after consulting the party whose point of view was represented by such person.

**Replacement
of chairman**

(7) If the chairman of a board is unable to enter on or to carry on his duties so as to enable it to render a decision within a reasonable time after its establishment, the Lieutenant Governor in Council may appoint a person to act as chairman in his place.

**Persons
prohibited
as members**

(8) No person shall be appointed a member of a board who has any pecuniary interest in the matters coming before it or who is acting or has, within a period of six months preceding the date of his appointment, acted as solicitor, counsel or agent of either of the parties.

Procedure

(9) A board shall determine its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions.

Idem

(10) If the members of a board are unable to agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs.

Decision

(11) The decision of a majority of the members of a board is the decision of the board, but, if there is no majority, the decision of the chairman is the decision of the board.

**Powers of
board**

(12) A board has all the powers of the Tribunal,

- (a) to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence on oath or affirmation;
- (b) to administer oaths and affirmations; and
- (c) to accept or exclude any oral testimony, document or other thing.

Idem

(13) A board may,

- (a) enter any premises of the employer where work is being done or has been done by the employees or in which the employer carries on business or where anything is taking place or has taken place concerning any of the differences submitted to it or him, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any such thing or any of such differences; and
- (b) authorize any person to do anything that the board may do under clause *a* and to report thereon to the board.

11.—(1) The board shall examine into and decide on matters that are in dispute within the scope of collective bargaining under this Act. Duty of board

(2) In the conduct of proceedings before it and in rendering a decision in respect of a matter in dispute, the board shall consider any factor that to it appears to be relevant to the matter in dispute including, Factors to be taken into account by board

- (a) the needs of the Crown and its agencies for qualified employees;
- (b) the conditions of employment in similar occupations outside the public service, including such geographic, industrial or other variations as the board may consider relevant;
- (c) the desirability to maintain appropriate relationships in the conditions of employment as between classifications in the public service; and
- (d) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered.

(3) The board may, upon application by either party to a decision within ten days after the release of the decision, subject to affording the parties the opportunity to make representations thereupon to the board, amend, alter or vary the decision where it is shown to the satisfaction of the board that it has failed to deal with any matter in dispute referred to it or that an error is apparent on the face of the decision. Reference back to board

R.S.O. 1970,
c. 25, 1971,
c. 47 not to
apply

(4) *The Arbitrations Act* and *The Statutory Powers Procedure Act*, 1971 do not apply to arbitrations under this Act.

Where
agreement
reached

12.—(1) Where, during the bargaining under this Act or during the proceedings before the board, the parties agree on all the matters to be included in a collective agreement, they shall put them in writing and shall execute the document, and thereupon it constitutes a collective agreement under this Act.

Decision
of board

(2) Where, during the bargaining under this Act or during the proceedings before the board, the parties have agreed upon some matters to be included in the collective agreement and they have so notified the board in writing, the board's decision, except as otherwise agreed by the parties, shall be confined to the matters not agreed upon by the parties, and, if, following the rendering of the decision, the parties fail to agree on the terms of a collective agreement within ten days after the release of the decision or within such longer period as may be agreed upon by the parties, the board shall prepare a document giving effect to the agreement of the parties and its decision and shall submit the document to the parties for execution.

Idem

(3) The board shall, in its decision, fix the time within which and the place where the parties shall execute the document.

Failure to
execute
agreement

(4) If the parties or either of them fail to execute the document within such time as is fixed by the decision, the board may order that the document be in effect as though it had been executed by the parties, and the document thereupon constitutes a collective agreement under this Act, effective from the day designated in the order or, failing such designation, from the day upon which the order was made.

Agreement
not to
require
legislative
implementa-
tion

13. No collective agreement or decision of a board shall contain any term which would require either directly or indirectly for its implementation the enactment or amendment of legislation except for the purpose of appropriating moneys for its implementation.

Employee
organization
as exclusive
bargaining
agent

14. Every collective agreement shall be deemed to provide that the employee organization that is a party thereto is recognized as the exclusive bargaining agent for the bargaining unit to which the agreement applies.

Payment of
dues to
employee
organization

15.—(1) The parties to a collective agreement may provide for the payment by the employees of dues or contributions to the employee organization.

(2) Where the Tribunal is satisfied that an employee because of his religious convictions or belief objects to paying dues or contributions to an employee organization, the Tribunal may order that the provisions of the collective agreement pertaining thereto do not apply to such employee and that the employee is not required to pay dues or contributions to the employee organization, provided that amounts equivalent thereto are remitted by the employer to a charitable organization mutually agreed upon by the employee and the employee organization and failing such agreement then to such charitable organization registered as such under Part I of the *Income Tax Act* (Canada) as may be designated by the Tribunal.

Where objection to dues because of religious belief
1970-71, c. 63 (Can.)

(3) No collective agreement shall contain a provision which would require, as a condition of employment, membership in the employee organization.

Requiring membership in employee organization prohibited

16.—(1) If a collective agreement does not provide for its term of operation, or provides for its operation for an unspecified term, it shall be deemed to provide for a term of two years.

Minimum term of agreements

(2) If the parties fail to agree on the term of a collective agreement, the board shall not provide for a term of less than two years.

Agreement not to be less than 2 years unless parties otherwise agree

(3) A collective agreement shall not be terminated by the parties before it ceases to operate in accordance with its provisions or this Act without the consent of the Tribunal on the joint application of the parties.

Early termination of collective agreements

17.—(1) Every collective agreement shall be deemed to provide that it is the exclusive function of the employer to manage, which function, without limiting the generality of the foregoing, includes the right to determine employment, appointment, complement, organization, work methods and procedures, kinds and location of equipment, discipline and termination of employment, assignment, classification, job evaluation system, merit system, training and development, appraisal, superannuation and the principles and standards governing promotion, demotion, transfer, lay-off and reappointment, and that such matters will not be the subject of collective bargaining nor come within the jurisdiction of a board.

Exclusive functions of employer

(2) In addition to any other rights of grievance under a collective agreement, an employee claiming,

Grievances

(a) that his position has been improperly classified;

- (b) that he has been appraised contrary to the governing principles and standards;
- (c) that, contrary to the governing principles and standards or to the methods of effecting promotions, demotions, transfers, lay-offs or reappointments provided in the collective agreement, he has been promoted, demoted, transferred or laid off or has not been reappointed; or
- (d) that he has been disciplined, or dismissed or suspended from his employment, without just cause,

may process such matter in accordance with the grievance procedure provided in the collective agreement, and failing final determination under such procedure, the matter may be processed in accordance with the procedures for final determination applicable under *The Public Service Act* and the regulations thereunder.

R.S.O. 1970,
c. 386

Arbitration
of disputes
under
agreement

18.—(1) Every collective agreement shall be deemed to provide that in the event the parties are unable to effect a settlement of any differences between them arising from the interpretation, application, administration or alleged contravention of the agreement, including any question as to whether a matter is arbitrable, such matter may be referred for arbitration to the Public Service Grievance Board and the Board, after giving full opportunity to the parties to present their evidence and to make their submissions, shall decide the matter and its decision is final and binding upon the parties and the employees covered by the agreement.

Powers

(2) The Public Service Grievance Board has the same powers as a board of arbitration under subsections 12 and 13 of section 10.

Penalty
where
employee
disciplined,
etc.

(3) Where the Public Service Grievance Board determines that a disciplinary penalty or dismissal of an employee is excessive, it may substitute such other penalty for the discipline or dismissal as it considers just and reasonable in all the circumstances.

Enforce-
ment of
arbitration
decisions

(4) Where a party or an employee has failed to comply with any of the terms of the decision of the Public Service Grievance Board, any party or employee affected by the decision may, after the expiration of fourteen days from the date of the release of the decision or the date provided in the decision for compliance, whichever is later, file in the office of the Registrar of the Supreme Court a copy of the decision,

exclusive of the reasons therefor, in the prescribed form, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such.

OPERATION OF AGREEMENTS

19.—(1) A collective agreement is, subject to and for the purposes of this Act, binding upon the employer, upon the employee organization that is a party thereto and upon the employees in the bargaining unit covered by the agreement. Binding effect of agreement

(2) Subsection 1 applies to every collective agreement covering a bargaining unit to which subsection 2 of section 3 applies, which is in operation upon the coming into force of this Act. Application of subs. 1 to existing agreements

20. Either party to a collective agreement desiring to bargain with a view to the renewal, with or without modifications, of the agreement then in operation or the making of a new agreement, may, only during the period between the ninetieth and one hundred and twentieth days prior to the termination of the agreement, give notice in writing thereof to the other party accompanied by a statement in writing of its proposed modifications, if any. Notice of desire to bargain for renewal or new agreement

21.—(1) Where notice has been given by the employee organization under section 7, the conditions then in effect applicable to or binding upon the employer, the employee organization or the employees which are subject to collective bargaining within the meaning of this Act shall not be altered without the consent of the employer, the employee organization or the employees, as the case may be. Conditions in effect when notice to bargain given not to be altered

(2) Where notice has been given by either party to a collective agreement under section 20, except as altered by an agreement in writing of the parties, the terms and provisions of the agreement then in operation shall continue to operate until a new agreement entered into pursuant to the provisions of this Act is in operation. Agreement to continue after notice to bargain for renewal or new agreement

TERMINATION OF REPRESENTATION RIGHTS

22.—(1) If an employee organization does not enter into a collective agreement with the employer within one year after being granted representation rights or fails to give notice of its intention to bargain as provided under section 20 and no such notice has been given by the employer, the employer or Application for termination of representation rights

any employee in the bargaining unit concerned may apply to the Tribunal for a declaration that the employee organization no longer represents the employees in the bargaining unit.

Idem

(2) Any employee in the bargaining unit covered by a collective agreement may apply to the Tribunal for a declaration that the employee organization no longer represents the employees in the bargaining unit only during the period between the ninetieth and one hundred and twentieth days prior to the termination of the agreement.

Representation
vote

(3) Upon the application under subsection 2, the Tribunal shall ascertain the number of employees in the bargaining unit at the time the application was made and if a majority of the employees in the bargaining unit have voluntarily signified in writing that they no longer wish to be represented by the employee organization, the Tribunal shall conduct a representation vote to determine whether or not the employees desire that the right of the employee organization to bargain on their behalf be terminated.

Result
of vote

(4) If, on the taking of the representation vote, more than 50 per cent of the ballots cast are in opposition to the employee organization, the Tribunal shall declare that the employee organization that was granted representation rights or that was or is a party to the collective agreement, as the case may be, no longer represents the employees in the bargaining unit.

Effect of
termination

(5) Upon the Tribunal declaring that the employee organization no longer represents the employees in the bargaining unit, the employee organization ceases to have such representation rights and any collective agreement in operation between the employee organization and the employer that is binding upon the employees in the bargaining unit ceases to operate and any decision of a board applying to the bargaining unit ceases to have effect.

Termination
of rights
where
employee
organization
desires or
has ceased
to act

23.—(1) Where the Tribunal is advised by an employee organization that it wishes to be released of its representation rights in respect of a bargaining unit or where the Tribunal, upon application by the employer or any employee in a bargaining unit represented by an employee organization, determines that the employee organization has ceased to act on behalf of the employees, the Tribunal shall declare that the employee organization no longer represents the employees in the bargaining unit.

Where lack
of qualifica-
tion or
obtained
by fraud

(2) Where the Tribunal,

(a) upon application thereto by the employer or any employee concerned, determines that an employee

organization would not, if it were applying for representation rights in respect of a bargaining unit, be granted such rights by the Tribunal by reason of failure to qualify under clause *h* of subsection 1 of section 1; or

- (b) is satisfied that an employee organization has obtained representation rights in respect of a bargaining unit by fraud,

the Tribunal shall declare that the employee organization no longer represents the employees in the bargaining unit.

(3) Upon the Tribunal declaring that the employee organization no longer represents the employees in the bargaining unit, the employee organization ceases to have such representation rights and any collective agreement in operation between the employee organization and the employer that is binding upon the employees in the bargaining unit ceases to operate and any decision made by a board applying to the bargaining unit ceases to have effect. Effect of termination

PROHIBITIONS

24. No person shall attempt at the employee's place of employment to persuade him to become or refrain from becoming a member of an employee organization. Persuasion at place of work

25. The employer shall not cause a lock-out, and an employee shall not strike. Strike and lock-out prohibited

26. Nothing in this Act prohibits any suspension or discontinuance for cause of an employer's operations or the quitting of employment for cause if the suspension, discontinuance or quitting does not constitute a lock-out or strike. Suspension or quitting for cause not to constitute lock-out or strike

27.—(1) No person who is acting on behalf of the employer shall participate in or interfere with the selection, formation or administration of an employee organization or the representation of employees by such an organization, but nothing in this section shall be deemed to deprive the employer or any person acting on behalf of the employer of his freedom to express his views so long as he does not use coercion, intimidation, threats, promises or undue influence. Interference with employee organization prohibited

(2) The employer or any person acting on behalf of the employer shall not, Interference with employee's rights prohibited

- (a) refuse to employ or to continue to employ or discriminate against a person with regard to employment

or any term or condition of employment because the person is exercising any right under this Act or is or is not a member of an employee organization;

- (b) impose any condition on an appointment or in a contract of employment that seeks to restrain an employee or a person seeking employment from becoming a member of an employee organization or exercising any right under this Act;
- (c) seek by intimidation, by threat of dismissal or by any other kind of threat or by the imposition of a pecuniary or any other penalty or by any other means to compel an employee to become or refrain from becoming or to continue or cease to be a member of an employee organization, or to refrain from exercising any other right under this Act; or
- (d) refuse to employ or continue to employ or discriminate against a person with regard to employment only because the person refused to make a contribution or expenditure to or on behalf of any political party or to or on behalf of a candidate for public office,

but no person shall be deemed to have contravened this subsection by reason of any act or thing done or omitted in relation to a person employed or proposed to be employed in a managerial or confidential capacity.

Intimidation and coercion

(3) No person or employee organization shall seek by intimidation or coercion to compel any person to become or refrain from becoming or to continue to be or to cease to be a member of an employee organization or to refrain from exercising any other rights under this Act or from performing any obligations under this Act.

Duty of fair representation

28. An employee organization shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employees, whether members of the employee organization or not.

Authorizing or counselling strikes prohibited

29. No employee organization shall declare or authorize a strike of employees, and no officer or representative of an employee organization shall counsel, procure or support the declaration or authorization of a strike of employees or the participation of employees in a strike.

ENFORCEMENT

30.—(1) The Tribunal may appoint an investigator with ^{Inquiry by} authority to inquire into a complaint that, ^{investigator}

- (a) a person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment;
- (b) a person has been suspended, expelled or penalized in any way contrary to section 34;
- (c) an employee organization, employer or any person or persons has acted in any way contrary to section 28 or 35.

(2) The investigator shall forthwith inquire into the ^{Duties} complaint and endeavour to effect a settlement of the matter.

(3) The investigator shall report the results of his inquiry ^{Report} and endeavours to the Tribunal.

(4) Where an investigator is unable to effect a settlement ^{Inquiry by} of the matter or where the Tribunal in its discretion considers ^{Tribunal} it advisable to dispense with an inquiry by an investigator, the Tribunal may inquire into the complaint and,

- (a) if the Tribunal is satisfied that the person concerned has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment by the employer or by any person or employee organization it shall determine what, if anything, the employer, person or employee organization shall do or refrain from doing with respect thereto, and such determination may include the hiring or reinstatement in employment of the person concerned, with or without compensation or compensation in lieu of hiring or reinstatement for loss of earnings and other employment benefits for which compensation may be assessed against the employer, person or employee organization, jointly or severally, and the employer, person or employee organization shall, notwithstanding the provisions of any collective agreement, do or abstain from doing anything required of them or any of them by the determination;

- (b) if the Tribunal is satisfied that the person concerned has been suspended, expelled or penalized in any way contrary to section 34 it shall so declare, and thereupon the suspension, expulsion or penalty is void; or
- (c) if the Tribunal is satisfied that the employee organization, employer, person or employee concerned has acted contrary to section 28 or 35, it shall determine what, if anything, the employee organization, employer, person or employee shall do or refrain from doing with respect thereto, and such determination may include compensation for loss of earnings and other employment benefits and the employee organization, employer, person or employee shall, notwithstanding the provisions of any collective agreement, do or abstain from doing anything required of them or it.

**Effect of
settlement**

(5) Where the matter complained of has been settled, whether through the endeavours of the investigator or otherwise, and the terms of the settlement have been put in writing and signed by the parties or their representatives, the settlement is binding upon the parties, the employee organization, employer, person or employee who have agreed to the settlement and shall be complied with according to its terms, and a complaint that the employee organization, employer, person or employee who has agreed to the settlement has not complied with the terms of the settlement shall be deemed to be a complaint under clause *a, b or c* of subsection 1, as the case may be.

**Declaration
of unlawful
strike**

31. Where it is alleged that an employee organization has declared or authorized a strike or that employees are engaging in a strike, the employer may apply to the Tribunal for a declaration that such action would be or is contrary to section 25, and the Tribunal, after affording an opportunity to the employer and the employee organization or to the employees, as the case may be, to be heard on the application, may make such a declaration.

**Declaration
of unlawful
lock-out**

32. Where it is alleged that the employer has declared or authorized a lock-out or is engaging in a lock-out, any of the employees directly affected thereby or the employee organization concerned may apply to the Tribunal for a declaration that such action was or is contrary to section 25, and the Tribunal after affording an opportunity to the employer and the employees or employee organization, as the case may be, to be heard on the application, may make such a declaration.

33. No person shall do any act if he knows or ought to know that, as a probable and reasonable consequence of the act, another person or persons will take any action contrary to section 25. ^{Causing unlawful strikes, lock-outs}

34. No employee organization shall suspend, expel or penalize in any way a member because he has refused to engage in or to continue to engage in any action contrary to section 25. ^{Refusal to engage in unlawful strike}

35.—(1) The employer or any person acting on behalf of the employer shall not, ^{Protection of witnesses' rights}

- (a) refuse to employ or continue to employ a person;
- (b) threaten dismissal or otherwise threaten a person;
- (c) discriminate against a person in regard to employment or a term or condition of employment; or
- (d) intimidate or coerce or impose a pecuniary or other penalty on a person,

because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceeding under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act.

(2) No employee organization or person acting on behalf of an employee organization shall, ^{Idem}

- (a) discriminate against a person in regard to employment or a term or condition of employment; or
- (b) intimidate or coerce or impose a pecuniary or other penalty on a person,

because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceeding under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act.

TRIBUNAL

36.—(1) There shall be a tribunal to be known as the Ontario Public Service Labour Relations Tribunal. ^{Tribunal established}

- Composition** (2) The Tribunal shall be composed of one or more adjudicators appointed by the Lieutenant Governor in Council as the Lieutenant Governor in Council considers appropriate.
- Chairman** (3) The Lieutenant Governor in Council shall designate one adjudicator to be the chairman.
- Vacancy** (4) A vacancy in the membership of the Tribunal for any cause may be filled by the Lieutenant Governor in Council.
- Quorum** (5) One adjudicator constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Tribunal.
- Assignment of adjudicators** (6) The chairman shall from time to time assign the adjudicators of the Tribunal to its various sittings and designate one as presiding member for each sitting.
- Decision** (7) Where the Tribunal at any sitting is composed of one adjudicator, his decision constitutes a decision of the Tribunal, and, where the Tribunal at any sitting is composed of more than one adjudicator, a decision of a majority of the adjudicators, constitutes a decision of the Tribunal, provided that in the event of a tie vote, the presiding member has a casting vote.
- Jurisdiction** **37.** The Tribunal has exclusive jurisdiction to exercise the powers conferred upon it by this Act and to determine all questions of fact or law that arise in any matter before it, and, except as otherwise provided in this Act, the action or decision of the Tribunal thereon is final and binding for all purposes, but nevertheless the Tribunal may at any time, if it considers it advisable to do so, reconsider any decision, order, direction, declaration or ruling made by it and vary or revoke any such decision, order, direction, declaration or ruling.
- Question as to whether person an employee** **38.** If, in the course of bargaining for a collective agreement or during the period of operation of a collective agreement, a question arises as to whether a person is an employee, the question may be referred to the Tribunal and its decision thereon is final and binding for all purposes.
- Powers and duties of Tribunal** **39.—**(1) The Tribunal shall exercise such powers and perform such duties as are conferred upon it by this Act, including power,
- (a) to enter any premises of the employer where work is being or has been done by the employees or in which the employer carries on business and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any matter;

- (b) to enter upon the premises of the employer and conduct representation votes during working hours and give such directions in connection with the vote as it considers necessary;
- (c) to authorize any person to do anything that the Tribunal may do under clauses *a* and *b* and to report to the Tribunal thereon;
- (d) to authorize an adjudicator to inquire into any application, request, complaint, matter or thing within the jurisdiction of the Tribunal, or any part of any of them, and to report to the Tribunal thereon;
- (e) to bar an unsuccessful applicant for any period not exceeding ten months from the date of the dismissal of the unsuccessful application, or to refuse to entertain a new application by an unsuccessful applicant or by any of the employees affected by an unsuccessful application or by any person or employee organization representing such employees within any period not exceeding ten months from the date of the dismissal of the unsuccessful application;
- (f) to determine the form in which and the time as of which evidence of membership in an employee organization or of objection by employees to representation rights of an employee organization or of signification by employees that they no longer wish to be represented by an employee organization shall be presented to the Tribunal on an application for representation rights or for a declaration terminating representation rights, and to refuse to accept any evidence of membership or objection or signification that is not presented in the form and as of the time so determined; and
- (g) to administer oaths and affirmations.

(2) Notwithstanding sections 2 and 22, where an application has been made for representation rights of an employee organization as bargaining agent for employees in a bargaining unit or for a declaration that the employee organization no longer represents the employees in a bargaining unit and a final decision of the application has not been issued by the Tribunal at the time a subsequent application for such representation rights or for such a declaration is made with respect to any of the employees affected by the original application, the Tribunal may, ^{Subsequent applications for representation rights, etc}

- (a) treat the subsequent application as having been made on the date of the making of the original application;
- (b) postpone consideration of the subsequent application until a final decision has been issued on the original application and thereafter consider the subsequent application but subject to any final decision issued by the Tribunal on the original application; or
- (c) refuse to entertain the subsequent application.

Deter-
mination of
membership

(3) Where the Tribunal is satisfied that an employee organization has an established practice of admitting persons to membership without regard to the eligibility requirements of its charter, constitution or by-laws, the Tribunal in determining whether a person is a member of an employee organization, need not have regard for such eligibility requirements provided that any person so admitted to membership is accorded full membership status for all purposes by the employee organization.

Where choice
between
two or more
employee
organizations

(4) Where, in the taking of a representation vote, the Tribunal determines that the employees are to be given a choice between two or more employee organizations,

- (a) the Tribunal may include on a ballot a choice indicating that an employee does not wish to be represented by an employee organization; and
- (b) the Tribunal, when it decides to hold such additional representation votes as may be necessary, may eliminate from the choice on the ballot the choice from the previous ballot that has obtained the lowest number of votes cast.

Stated case

40.—(1) The Tribunal may of its own motion and shall upon the request of any party state a case in writing to the Court of Appeal upon any question of law.

Court to
hear and
determine
stated case

(2) Where a case is stated under this section, the Court of Appeal shall hear and determine in a summary manner the question raised.

Proceedings
stayed

(3) Pending the decision of the Court of Appeal on a case stated under this section, no further proceedings shall be taken by the Tribunal with respect to the subject-matter of the stated case but it may continue its inquiry into matters not in issue in the stated case.

41.—(1) The Tribunal shall determine its own practice and procedure but shall afford to the parties to any proceedings an opportunity for a hearing to present their evidence and to make their submissions, and the Tribunal may, subject to the approval of the Lieutenant Governor in Council, make rules, not inconsistent with the provisions of this Act, governing its practice and procedure and the exercise of its powers. Procedure

(2) *The Statutory Powers Procedure Act, 1971* applies to the proceedings of the Tribunal. Application of 1971, c. 47

OFFENCES

42.—(1) Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 for each day upon which such contravention occurs or continues. Contra-vention of Act by person

(2) Every employee organization that contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 for every day upon which such contravention occurs or continues. Contra-vention of Act by employee organization

(3) If an employee organization is guilty of an offence under this Act, every officer or representative thereof who assented to the commission of the offence shall be deemed to be a party to and guilty of the offence and is liable to a fine under subsection 1 as if he had been convicted of an offence under subsection 1. When officers also guilty of offence

(4) An information in respect of a contravention of any provision of this Act may be for one or more offences and no information, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. Information

(5) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Tribunal, which may only be granted after affording an opportunity to the parties or to the employees, as the case may be, to be heard. Consent

43. A prosecution for an offence may be brought against an employee organization in the name of that organization, and, for the purposes of any such prosecution, an employee organization shall be deemed to be a person, and any act or thing done or omitted by an officer or representative of an employee organization within the apparent scope of his Prosecution of employee organization

authority to act on behalf of the employee organization shall be deemed to be an act or thing done or omitted by the employee organization.

GENERAL

Trusteeship
over
employee
organization

44.—(1) If the autonomy of an employee organization is suspended under the constitution and by-laws of its parent body, written notice thereof shall be given the Tribunal by the parent body within thirty days of the commencement of such suspension together with a statement in the prescribed form, verified by the affidavit of its principal officers, setting out the terms under which supervision or control is to be exercised and it shall, upon the direction of the Tribunal, file such additional information as the Tribunal from time to time may require.

Duration of
trusteeship

(2) Any such supervision or control shall not continue for more than twelve months from the date of such suspension but such supervision or control may be continued for such further period as the Tribunal may prescribe.

Information

45.—(1) Every employee organization having representation rights under this Act shall, within three months after the coming into force of this Act and thereafter within three months after the end of each calendar year, file a statement with the Tribunal, certified as to the truth and accuracy thereof by the president and the treasurer, containing the following particulars:

- (a) the name of the organization;
- (b) the address of the headquarters of the organization in Ontario to which communications for the purposes of this Act may be directed;
- (c) the constitution and by-laws of the organization;
- (d) the name and address of each officer of the organization and the position held by each such officer;
- (e) the name and address of each officer and employee of the organization resident in Canada (other than a person performing primarily clerical or stenographic duties), the position held by each such officer and employee and the manner in which he was elected or appointed;
- (f) a financial statement for the latest complete fiscal year or, if the employee organization has not been in

existence for a complete fiscal year, for the period it has been in existence, consisting of,

- (i) a balance sheet showing the assets and liabilities of the organization made up for such fiscal year, and
- (ii) a statement of income and expenditure for such fiscal year, in such form and containing such particulars and other information relating to the financial position of the organization as may be prescribed by the regulations.

(2) Every financial statement shall be certified by a person licensed under *The Public Accountancy Act* and shall be accompanied by an affidavit completed by the president and treasurer of the employee organization affirming that throughout the fiscal period reported upon the employee organization was at all times qualified as an employee organization under this Act. Financial statement
R.S.O. 1970,
c. 373

(3) An employee organization having representation rights under this Act shall publish for its members its financial statement in the same form and within the same periods prescribed under subsections 1 and 2. Publication
of financial
statement

(4) Each party to a collective agreement shall forthwith after it is made, file one copy thereof with the Tribunal. Copy of
agreement
to be filed
with Tribunal

46. Any action or proceeding to restrain a contravention or otherwise enforce the provisions of this Act may be commenced in the Supreme Court after notice has been given to the employees affected by posting or publication in such manner as the Tribunal may direct, and in the case of an employee organization by service thereupon at the address shown in the statement required pursuant to subsection 1 of section 45. Enforcement
of Act

47. No member of the Tribunal or of a board or of the Public Service Grievance Board and no person appointed thereby or a mediator appointed under this Act shall be required to give evidence in any civil action, suit or other proceeding respecting information obtained in the discharge of his duties under this Act. Protection
against
giving
evidence in
civil actions

48.—(1) For the purposes of this Act and of any proceedings taken under it, any notice or communication, except in relation to a final decision or order of the Tribunal, sent through Her Majesty's mails shall be presumed, unless the contrary is proved, to have been received by the addressee in the ordinary course of mail. Mailed
notices

Time of
making
certain
applications

(2) An application for representation rights or for a declaration that an employee organization no longer represents the employees in a bargaining unit, if sent by registered mail addressed to the Tribunal at Toronto, shall be deemed to have been made on the date on which it was so mailed.

Time of
release of
documents

(3) A decision, determination, report, interim order, order, direction, declaration or ruling of the board, a notice from the Tribunal that it does not deem it advisable to appoint a mediator or a decision of a board,

(a) if sent by mail to the person, employer or employee organization concerned addressed to him or it at his or its last-known address, shall be deemed to have been released on the second day after the day on which it was so mailed; or

(b) if delivered to a person, the employer or employee organization concerned at his or its last-known address, shall be deemed to have been released on the day next after the day on which it was so delivered.

Secrecy as
to union
membership

49.—(1) The records of an employee organization relating to membership or any records that may disclose whether a person is or is not a member of an employee organization or does or does not desire to be represented by an employee organization produced in a proceeding before the Tribunal is for the exclusive use of the Tribunal and its officers and shall not, except with the consent of the Tribunal, be disclosed, and no person shall, except with the consent of the Tribunal, be compelled to disclose whether a person is or is not a member of an employee organization or does or does not desire to be represented by an employee organization.

Non-
disclosure

(2) No information or material furnished to or received by a mediator under this Act shall be disclosed, except to the Tribunal, unless otherwise authorized by the party providing the information or material.

Idem

(3) No report of a mediator shall be disclosed except to the Tribunal.

Competency
as witness

(4) A mediator appointed under this Act is not a competent or compellable witness in proceedings before a court or other tribunal respecting any information, material or report mentioned in subsection 2 or 3, or respecting any information or material furnished to or received by him, or any statement made to or by him in an endeavour to effect a collective agreement.

(5) The chairman or any other member of a board of ^{Idem} arbitration is not a competent or compellable witness in proceedings before a court or other tribunal respecting,

- (a) any information or material furnished to or received by him;
- (b) any evidence or representation submitted to him;
or
- (c) any statement made by him,

in the course of his duties under this Act.

50. No proceedings under this Act are invalid by reason of any defect of form or any technical irregularity and no such ^{Defects in form; technical irregularities} proceedings shall be quashed or set aside if no substantial wrong or miscarriage of justice has occurred.

51. The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) designating the body to represent any agency of the Crown for the purpose of clause *i* of subsection 1 of section 1;
- (b) prescribing the form and content of a statement of income and expenditure of an employee organization;
- (c) providing for and fixing the remuneration and expenses of the chairman and other members of a board and the chairman and other members of the Tribunal;
- (d) designating,
 - (i) units of employees that are appropriate bargaining units for collective bargaining purposes under this Act, and
 - (ii) designating the employee organization that shall have representation rights in relation to each of such bargaining units,

upon the day this Act comes into force;

- (e) prescribing forms and providing for their use.

52. The moneys required by the Crown for the purposes ^{Moneys required for Act} of this Act shall, until the end of March, 1973, be paid out

of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

Commence-
ment

53. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

54. This Act may be cited as *The Crown Employees Collective Bargaining Act, 1972*.

An Act to provide for
Collective Bargaining for Crown Employees

1st Reading

May 4th, 1972

2nd Reading

May 9th, 1972

3rd Reading

THE HON. C. MACNAUGHTON
Chairman, Management Board of Cabinet

*(Reprinted as amended by the
Administration of Justice Committee)*

BILL 105

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to provide for Collective Bargaining for Crown Employees

THE HON. C. MACNAUGHTON
Chairman, Management Board of Cabinet

TORONTO

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BILL 105

1972

An Act to provide for Collective Bargaining for Crown Employees

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

- (a) “adjudicator” means a member of the Ontario Public Service Labour Relations Tribunal;
- (b) “bargaining agent” means an employee organization that has representation rights under this Act;
- (c) “bargaining unit” means a unit of employees established for collective bargaining in accordance with this Act;
- (d) “board” means a board of arbitration established under this Act;
- (e) “collective agreement” means an agreement in writing between the employer and an employee organization covering terms and conditions of employment;
- (f) “Crown” means Her Majesty in right of Ontario;
- (g) “employee” means a Crown employee as defined in *The Public Service Act* but does not include,
 - (i) a member of the Ontario Provincial Police Force,
 - (ii) an employee of a college of applied arts and technology,
 - (iii) a person employed in a managerial or confidential capacity,

R.S.O. 1970,
c. 386

- (iv) a person who is a member of the architectural, dental, engineering, legal or medical professions, entitled to practise in Ontario and employed in a professional capacity,
 - (v) a person who is employed on a casual or temporary basis unless he has been so employed continuously for a period of six months, or more,
 - (vi) a person engaged under contract in a professional or other special capacity, or for a project of a non-recurring kind, or on a temporary work assignment arranged by the Civil Service Commission in accordance with its program for providing temporary help,
 - (vii) a person engaged and employed outside Ontario, or
 - (viii) a person employed in the office of the Provincial Auditor or of the Speaker, Deputy Speaker or Clerk of the Assembly;
- (h) "employee organization" means an organization of employees formed for the purpose of regulating relations between the employer and employees under this Act, but does not include such an organization of employees that,
- (i) receives from any of its members who are employees any money for activities carried on by or on behalf of any political party,
 - (ii) handles or pays in its own name on behalf of members who are employees any money for activities carried on by or on behalf of any political party,
 - (iii) requires as a condition of membership therein the payment by any of its members who are employees of any money for activities carried on by or on behalf of any political party,
 - (iv) supports or requires its members who are employees otherwise to support any political party, or
 - (v) discriminates against any employee because of age, sex, race, national origin, colour or religion;

- (i) "employer" means the Crown in right of Ontario;
- (j) "lock-out" includes the closing of a place of employment, a suspension of work or a refusal by the employer to continue to employ a number of employees with a view to compel or induce the employees, or to aid another employer to compel or induce his employees, to refrain from exercising any rights or privileges under this Act or to agree to provisions or changes in provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, the employee organization or the employees;
- (k) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (l) "party" means the employee organization that is the bargaining agent for a bargaining unit, on the one hand, and the employer, on the other hand, and "parties" means the two of them;
- (m) "person employed in a managerial or confidential capacity" means a person who,
 - (i) is employed in a position confidential to the Lieutenant Governor, a Minister of the Crown, a judge of a provincial court, the deputy head of a ministry of the Government of Ontario or the chief executive officer of any agency of the Crown,
 - (ii) is involved in the formulation of organization objectives and policy in relation to the development and administration of programs of the Government or an agency of the Crown or in the formulation of budgets of the Government or an agency of the Crown,
 - (iii) spends a significant portion of his time in the supervision of employees,
 - (iv) is required by reason of his duties or responsibilities to deal formally on behalf of the employer with a grievance of an employee,
 - (v) adjudicates or determines claims for compensation which are made pursuant to the provisions of any statute,

- (vi) is employed in a position confidential to any person described in subclause i, ii, iii, iv or v,
- (vii) is employed in a confidential capacity in matters relating to employee relations including a person employed in a clerical, stenographic or secretarial position in the Civil Service Commission or in a personnel office in a ministry or agency of the Government of Ontario, or
- (viii) is not otherwise described in subclauses i to vii but who in the opinion of the Tribunal should not be included in a bargaining unit by reason of his duties and responsibilities to the employer;

R.S.O. 1970,
c. 386

(n) "public servant" means a public servant as defined in *The Public Service Act* and "public service" has a corresponding meaning;

(o) "Public Service Grievance Board" means the Public Service Grievance Board established under *The Public Service Act*;

(p) "regulations" means the regulations made under this Act;

(q) "strike" includes a cessation of work, a refusal to work or to continue to work by employees in combination or in concert or in accordance with a common understanding, or a slow-down or other concerted activity on the part of employees designed to restrict or interfere with work or services;

(r) "Tribunal" means the Ontario Public Service Labour Relations Tribunal.

Employer
representa-
tive

(2) The employer may be represented, in the case of the public service, by the Management Board of Cabinet, and in the case of an agency of the Crown, by the body designated by the regulations.

No loss of
employment
by lock-out,
etc.

(3) No employee shall be deemed to have ceased to be employed by reason only of his ceasing to work for the employer as a result of a lock-out contrary to section 25 or by reason only of his being dismissed by the employer contrary to this Act or to a collective agreement.

REPRESENTATION RIGHTS

2.—(1) Where no employee organization has representation rights in respect of a unit of employees that the employee organization claims to be appropriate for collective bargaining, an employee organization may apply at any time to the Tribunal for representation rights as bargaining agent of the employees in such unit. Application for representation rights

(2) Where a collective agreement is for a term of not more than three years, an employee organization may apply to the Tribunal for representation rights as bargaining agent of the employees in the bargaining unit only during the period between the ninetieth and one hundred and twentieth days prior to the termination of the agreement. Idem

(3) Where a collective agreement is for a term of more than three years, an employee organization may apply to the Tribunal for representation rights as bargaining agent of the employees in the bargaining unit only during the thirty-day period immediately prior to the last ninety days, Idem

(a) of the operation of the third year of the agreement;

(b) of each year that the agreement continues to operate after the third year; or

(c) of the termination of the agreement.

(4) Every application for representation rights shall be accompanied by the financial statement of the employee organization for the latest complete fiscal year or, if the employee organization has not been in existence for a complete fiscal year, for the period it has been in existence, and an affidavit both in the same form as required under subsections 1 and 2 of section 45. Application to include financial statement

(5) Every employee organization designated by the regulations shall be deemed to have been granted representation rights under this Act upon the coming into force of this Act in relation to such bargaining unit or units as are designated by the regulations. Representation rights on coming into force of Act

3.—(1) Upon an application for representation rights, the Tribunal shall, subject to subsection 2, determine the unit of employees that is appropriate for collective bargaining purposes under this Act. Tribunal to establish appropriate unit of employees

(2) The bargaining units designated in the regulations are appropriate units for collective bargaining purposes under this Act. Existing units appropriate for collective bargaining

Rep-
resentation
vote

4.—(1) Upon an application for representation rights by an employee organization claiming not less than 35 per cent of the employees in the appropriate bargaining unit as members, the Tribunal upon satisfying itself that not less than 35 per cent of such employees are members of the employee organization shall direct that a representation vote be taken.

Result of
vote

(2) If, on the taking of a representation vote, more than 50 per cent of the ballots cast are in favour of the employee organization, the Tribunal shall grant representation rights to the employee organization as the bargaining agent of the employees in the bargaining unit.

Certain
employee
organiza-
tions not to
have rep-
resentation
rights

5. The Tribunal shall not grant representation rights to any employee organization in the formation or administration of which there has been or is, in the opinion of the Tribunal, participation by the employer or any person acting on behalf of the employer of such a nature as to impair the employee organization's fitness to represent the interests of employees in the bargaining unit.

NEGOTIATION OF AGREEMENTS

Bargaining
authority

6. Upon being granted representation rights, the employee organization is authorized to bargain with the employer on terms and conditions of employment, except as to matters that are exclusively the function of the employer under subsection 1 of section 17, and, without limiting the generality of the foregoing, including rates of remuneration, hours of work, overtime and other premium allowance for work performed, the mileage rate payable to an employee for miles travelled when he is required to use his own automobile on the employer's business, benefits pertaining to time not worked by employees including paid holidays, paid vacations, group life insurance, health insurance and long-term income protection insurance, the procedures applicable to the processing of grievances, the methods of effecting promotions, demotions, transfers, layoffs or reappointments and the conditions applicable to leaves of absence for other than any elective public office or political activities or training and development.

Notice of
desire to
bargain

7.—(1) Upon being granted representation rights under section 4, the employee organization may give the employer written notice of its desire to bargain with the view to making a collective agreement.

Obligation
to bargain

(2) The parties shall meet within fifteen days from the giving of the notice or within such further period as the parties agree upon and they shall bargain in good faith and make every reasonable effort to make a collective agreement.

MEDIATION

8.—(1) Where notice has been given under section 7 or 20, ^{Appointment of mediator} the Tribunal may, when advised in writing by either party that the parties are unable to reach agreement, appoint a mediator who shall confer with the parties and endeavour to effect a collective agreement.

(2) If the mediator is unable to effect a collective agree- ^{Report of mediator if unable to effect agreement} ment between the parties within thirty days after the date of his appointment or such longer period as the Tribunal may direct or the parties may agree upon, he shall report thereupon to the Tribunal.

ARBITRATION

9. If the mediator appointed under section 8 is unable to ^{When matters to be determined by arbitration} effect a collective agreement or if the Tribunal determines that a mediator should not be appointed, all matters in dispute coming within the scope of collective bargaining under this Act shall be decided by arbitration in accordance with this Act.

10.—(1) A person shall be appointed by the Lieutenant ^{Chairman} Governor in Council for a renewable term of two years to be the chairman of every board of arbitration established under this Act.

(2) Within fourteen days after receipt of notice from the ^{Appointment of members of board by parties} Tribunal that the mediator has reported that he is unable to effect a collective agreement or that the Tribunal has deter- ^{Failure of party to appoint member} mined that a mediator should not be appointed, each of the parties shall appoint to a board of arbitration a member who has indicated his willingness to act.

(3) Where a party fails to appoint a member of a board ^{Failure of party to appoint member} within the period of fourteen days mentioned in subsection 2 or 5, the Tribunal, upon the written request of either of the parties shall appoint such member.

(4) As soon as one of the parties appoints a member to a ^{Notice of appointment by party} board, it shall notify in writing the other party and the Tribunal of the name and address of the member appointed.

(5) Within fourteen days after receipt by a party of notice ^{Vacancies} from the Tribunal that the member representing its point of view has ceased to act by reason of resignation, death or otherwise before the board has completed its work, the

party shall notify the Tribunal of the person to be appointed to fill the vacancy created thereby.

Replacement
of member

(6) If, in the opinion of the Tribunal, a member of a board, other than the chairman, has failed to enter on or to carry on his duties so as to enable it to render a decision within a reasonable time after its establishment, the Tribunal may appoint a member in his place after consulting the party whose point of view was represented by such person.

Replacement
of chairman

(7) If the chairman of a board is unable to enter on or to carry on his duties so as to enable it to render a decision within a reasonable time after its establishment, the Lieutenant Governor in Council may appoint a person to act as chairman in his place.

Persons
prohibited
as members

(8) No person shall be appointed a member of a board who has any pecuniary interest in the matters coming before it or who is acting or has, within a period of six months preceding the date of his appointment, acted as solicitor, counsel or agent of either of the parties.

Procedure

(9) A board shall determine its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions.

Idem

(10) If the members of a board are unable to agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs.

Decision

(11) The decision of a majority of the members of a board is the decision of the board, but, if there is no majority, the decision of the chairman is the decision of the board.

Powers of
board

(12) A board has all the powers of the Tribunal,

(a) to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence on oath or affirmation;

(b) to administer oaths and affirmations; and

(c) to accept or exclude any oral testimony, document or other thing.

Idem

(13) A board may,

- (a) enter any premises of the employer where work is being done or has been done by the employees or in which the employer carries on business or where anything is taking place or has taken place concerning any of the differences submitted to it or him, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any such thing or any of such differences; and
- (b) authorize any person to do anything that the board may do under clause *a* and to report thereon to the board.

11.—(1) The board shall examine into and decide on matters that are in dispute within the scope of collective bargaining under this Act. ^{Duty of board}

(2) In the conduct of proceedings before it and in rendering a decision in respect of a matter in dispute, the board shall consider any factor that to it appears to be relevant to the matter in dispute including, ^{Factors to be taken into account by board}

- (a) the needs of the Crown and its agencies for qualified employees;
- (b) the conditions of employment in similar occupations outside the public service, including such geographic, industrial or other variations as the board may consider relevant;
- (c) the desirability to maintain appropriate relationships in the conditions of employment as between classifications in the public service; and
- (d) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered.

(3) The board may, upon application by either party to a decision within ten days after the release of the decision, subject to affording the parties the opportunity to make representations thereupon to the board, amend, alter or vary the decision where it is shown to the satisfaction of the board that it has failed to deal with any matter in dispute referred to it or that an error is apparent on the face of the decision. ^{Reference back to board}

R.S.O. 1970,
c. 25, 1971,
c. 47 not to
apply

(4) *The Arbitrations Act* and *The Statutory Powers Procedure Act, 1971* do not apply to arbitrations under this Act.

Where
agreement
reached

12.—(1) Where, during the bargaining under this Act or during the proceedings before the board, the parties agree on all the matters to be included in a collective agreement, they shall put them in writing and shall execute the document, and thereupon it constitutes a collective agreement under this Act.

Decision
of board

(2) Where, during the bargaining under this Act or during the proceedings before the board, the parties have agreed upon some matters to be included in the collective agreement and they have so notified the board in writing, the board's decision, except as otherwise agreed by the parties, shall be confined to the matters not agreed upon by the parties, and, if, following the rendering of the decision, the parties fail to agree on the terms of a collective agreement within ten days after the release of the decision or within such longer period as may be agreed upon by the parties, the board shall prepare a document giving effect to the agreement of the parties and its decision and shall submit the document to the parties for execution.

Idem

(3) The board shall, in its decision, fix the time within which and the place where the parties shall execute the document.

Failure to
execute
agreement

(4) If the parties or either of them fail to execute the document within such time as is fixed by the decision, the board may order that the document be in effect as though it had been executed by the parties, and the document thereupon constitutes a collective agreement under this Act, effective from the day designated in the order or, failing such designation, from the day upon which the order was made.

Agreement
not to
require
legislative
implementa-
tion

13. No collective agreement or decision of a board shall contain any term which would require either directly or indirectly for its implementation the enactment or amendment of legislation except for the purpose of appropriating moneys for its implementation.

Employee
organization
as exclusive
bargaining
agent

14. Every collective agreement shall be deemed to provide that the employee organization that is a party thereto is recognized as the exclusive bargaining agent for the bargaining unit to which the agreement applies.

Payment of
dues to
employee
organization

15.—(1) The parties to a collective agreement may provide for the payment by the employees of dues or contributions to the employee organization.

(2) Where the Tribunal is satisfied that an employee because of his religious convictions or belief objects to paying dues or contributions to an employee organization, the Tribunal shall order that the provisions of the collective agreement pertaining thereto do not apply to such employee and that the employee is not required to pay dues or contributions to the employee organization, provided that amounts equivalent thereto are remitted by the employer to a charitable organization mutually agreed upon by the employee and the employee organization and failing such agreement then to such charitable organization registered as such under Part I of the *Income Tax Act* (Canada) as may be designated by the Tribunal.

Where objection to dues because of religious belief

1970-71,
c. 63 (Can.)

(3) No collective agreement shall contain a provision which would require, as a condition of employment, membership in the employee organization.

Requiring membership in employee organization prohibited

16.—(1) If a collective agreement does not provide for its term of operation, or provides for its operation for an unspecified term, it shall be deemed to provide for a term of two years.

Minimum term of agreements

(2) If the parties fail to agree on the term of a collective agreement, the board shall not provide for a term of less than two years.

Agreement not to be less than 2 years unless parties otherwise agree

(3) A collective agreement shall not be terminated by the parties before it ceases to operate in accordance with its provisions or this Act without the consent of the Tribunal on the joint application of the parties.

Early termination of collective agreements

17.—(1) Every collective agreement shall be deemed to provide that it is the exclusive function of the employer to manage, which function, without limiting the generality of the foregoing, includes the right to determine employment, appointment, complement, organization, work methods and procedures, kinds and location of equipment, discipline and termination of employment, assignment, classification, job evaluation system, merit system, training and development, appraisal, superannuation and the principles and standards governing promotion, demotion, transfer, lay-off and reappointment, and that such matters will not be the subject of collective bargaining nor come within the jurisdiction of a board.

Exclusive functions of employer

(2) In addition to any other rights of grievance under a collective agreement, an employee claiming,

Grievances

(a) that his position has been improperly classified;

- (b) that he has been appraised contrary to the governing principles and standards;
- (c) that, contrary to the governing principles and standards or to the methods of effecting promotions, demotions, transfers, lay-offs or reappointments provided in the collective agreement, he has been promoted, demoted, transferred or laid off or has not been reappointed; or
- (d) that he has been disciplined, or dismissed or suspended from his employment, without just cause,

may process such matter in accordance with the grievance procedure provided in the collective agreement, and failing final determination under such procedure, the matter may be processed in accordance with the procedures for final determination applicable under *The Public Service Act* and the regulations thereunder.

R.S.O. 1970,
c. 386

Arbitration
of disputes
under
agreement

18.—(1) Every collective agreement shall be deemed to provide that in the event the parties are unable to effect a settlement of any differences between them arising from the interpretation, application, administration or alleged contravention of the agreement, including any question as to whether a matter is arbitrable, such matter may be referred for arbitration to the Public Service Grievance Board and the Board, after giving full opportunity to the parties to present their evidence and to make their submissions, shall decide the matter and its decision is final and binding upon the parties and the employees covered by the agreement.

Powers

(2) The Public Service Grievance Board has the same powers as a board of arbitration under subsections 12 and 13 of section 10.

Penalty
where
employee
disciplined,
etc.

(3) Where the Public Service Grievance Board determines that a disciplinary penalty or dismissal of an employee is excessive, it may substitute such other penalty for the discipline or dismissal as it considers just and reasonable in all the circumstances.

Enforce-
ment of
arbitration
decisions

(4) Where a party or an employee has failed to comply with any of the terms of the decision of the Public Service Grievance Board, any party or employee affected by the decision may, after the expiration of fourteen days from the date of the release of the decision or the date provided in the decision for compliance, whichever is later, file in the office of the Registrar of the Supreme Court a copy of the decision,

exclusive of the reasons therefor, in the prescribed form, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such.

OPERATION OF AGREEMENTS

19.—(1) A collective agreement is, subject to and for the purposes of this Act, binding upon the employer, upon the employee organization that is a party thereto and upon the employees in the bargaining unit covered by the agreement. Binding effect of agreement

(2) Subsection 1 applies to every collective agreement covering a bargaining unit to which subsection 2 of section 3 applies, which is in operation upon the coming into force of this Act. Application of subs. 1 to existing agreements

20. Either party to a collective agreement desiring to bargain with a view to the renewal, with or without modifications, of the agreement then in operation or the making of a new agreement, may, only during the period between the ninetieth and one hundred and twentieth days prior to the termination of the agreement, give notice in writing thereof to the other party accompanied by a statement in writing of its proposed modifications, if any. Notice of desire to bargain for renewal or new agreement

21.—(1) Where notice has been given by the employee organization under section 7, the conditions then in effect applicable to or binding upon the employer, the employee organization or the employees which are subject to collective bargaining within the meaning of this Act shall not be altered without the consent of the employer, the employee organization or the employees, as the case may be. Conditions in effect when notice to bargain given not to be altered

(2) Where notice has been given by either party to a collective agreement under section 20, except as altered by an agreement in writing of the parties, the terms and provisions of the agreement then in operation shall continue to operate until a new agreement entered into pursuant to the provisions of this Act is in operation. Agreement to continue after notice to bargain for renewal or new agreement

TERMINATION OF REPRESENTATION RIGHTS

22.—(1) If an employee organization does not enter into a collective agreement with the employer within one year after being granted representation rights or fails to give notice of its intention to bargain as provided under section 20 and no such notice has been given by the employer, the employer or Application for termination of representation rights

any employee in the bargaining unit concerned may apply to the Tribunal for a declaration that the employee organization no longer represents the employees in the bargaining unit.

Idem

(2) Any employee in the bargaining unit covered by a collective agreement may apply to the Tribunal for a declaration that the employee organization no longer represents the employees in the bargaining unit only during the period between the ninetieth and one hundred and twentieth days prior to the termination of the agreement.

Representation vote

(3) Upon the application under subsection 2, the Tribunal shall ascertain the number of employees in the bargaining unit at the time the application was made and if a majority of the employees in the bargaining unit have voluntarily signified in writing that they no longer wish to be represented by the employee organization, the Tribunal shall conduct a representation vote to determine whether or not the employees desire that the right of the employee organization to bargain on their behalf be terminated.

Result of vote

(4) If, on the taking of the representation vote, more than 50 per cent of the ballots cast are in opposition to the employee organization, the Tribunal shall declare that the employee organization that was granted representation rights or that was or is a party to the collective agreement, as the case may be, no longer represents the employees in the bargaining unit.

Effect of termination

(5) Upon the Tribunal declaring that the employee organization no longer represents the employees in the bargaining unit, the employee organization ceases to have such representation rights and any collective agreement in operation between the employee organization and the employer that is binding upon the employees in the bargaining unit ceases to operate and any decision of a board applying to the bargaining unit ceases to have effect.

Termination of rights where employee organization desires or has ceased to act

23.—(1) Where the Tribunal is advised by an employee organization that it wishes to be released of its representation rights in respect of a bargaining unit or where the Tribunal, upon application by the employer or any employee in a bargaining unit represented by an employee organization, determines that the employee organization has ceased to act on behalf of the employees, the Tribunal shall declare that the employee organization no longer represents the employees in the bargaining unit.

Where lack of qualification or obtained by fraud

(2) Where the Tribunal,

(a) upon application thereto by the employer or any employee concerned, determines that an employee

organization would not, if it were applying for representation rights in respect of a bargaining unit, be granted such rights by the Tribunal by reason of failure to qualify under clause *h* of subsection 1 of section 1; or

- (b) is satisfied that an employee organization has obtained representation rights in respect of a bargaining unit by fraud,

the Tribunal shall declare that the employee organization no longer represents the employees in the bargaining unit.

(3) Upon the Tribunal declaring that the employee organization no longer represents the employees in the bargaining unit, the employee organization ceases to have such representation rights and any collective agreement in operation between the employee organization and the employer that is binding upon the employees in the bargaining unit ceases to operate and any decision made by a board applying to the bargaining unit ceases to have effect. Effect of termination

PROHIBITIONS

24. No person shall attempt at the employee's place of employment to persuade him to become or refrain from becoming a member of an employee organization. Persuasion at place of work

25. The employer shall not cause a lock-out, and an employee shall not strike. Strike and lock-out prohibited

26. Nothing in this Act prohibits any suspension or discontinuance for cause of an employer's operations or the quitting of employment for cause if the suspension, discontinuance or quitting does not constitute a lock-out or strike. Suspension or quitting for cause not to constitute lock-out or strike

27.—(1) No person who is acting on behalf of the employer shall participate in or interfere with the selection, formation or administration of an employee organization or the representation of employees by such an organization, but nothing in this section shall be deemed to deprive the employer or any person acting on behalf of the employer of his freedom to express his views so long as he does not use coercion, intimidation, threats, promises or undue influence. Interference with employee organization prohibited

(2) The employer or any person acting on behalf of the employer shall not, Interference with employee's rights prohibited

- (a) refuse to employ or to continue to employ or discriminate against a person with regard to employment

or any term or condition of employment because the person is exercising any right under this Act or is or is not a member of an employee organization ;

- (b) impose any condition on an appointment or in a contract of employment that seeks to restrain an employee or a person seeking employment from becoming a member of an employee organization or exercising any right under this Act ;
- (c) seek by intimidation, by threat of dismissal or by any other kind of threat or by the imposition of a pecuniary or any other penalty or by any other means to compel an employee to become or refrain from becoming or to continue or cease to be a member of an employee organization, or to refrain from exercising any other right under this Act ; or
- (d) refuse to employ or continue to employ or discriminate against a person with regard to employment only because the person refused to make a contribution or expenditure to or on behalf of any political party or to or on behalf of a candidate for public office,

but no person shall be 'deemed to have contravened this subsection by reason of any act or thing done or omitted in relation to a person employed in a managerial or confidential capacity.

Intimidation and coercion

(3) No person or employee organization shall seek by intimidation or coercion to compel any person to become or refrain from becoming or to continue to be or to cease to be a member of an employee organization or to refrain from exercising any other rights under this Act or from performing any obligations under this Act.

Duty of fair representation

28. An employee organization shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employees, whether members of the employee organization or not.

Authorizing or counselling strikes prohibited

29. No employee organization shall declare or authorize a strike of employees, and no officer or representative of an employee organization shall counsel, procure or support the declaration or authorization of a strike of employees or the participation of employees in a strike.

ENFORCEMENT

30.—(1) The Tribunal may appoint an investigator with ^{Inquiry by investigator} authority to inquire into a complaint that,

- (a) a person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment;
- (b) a person has been suspended, expelled or penalized in any way contrary to section 34;
- (c) an employee organization, employer or any person or persons has acted in any way contrary to section 28 or 35.

(2) The investigator shall forthwith inquire into the ^{Duties} complaint and endeavour to effect a settlement of the matter.

(3) The investigator shall report the results of his inquiry ^{Report} and endeavours to the Tribunal.

(4) Where an investigator is unable to effect a settlement ^{Inquiry by Tribunal} of the matter or where the Tribunal in its discretion considers it advisable to dispense with an inquiry by an investigator, the Tribunal may inquire into the complaint and,

- (a) if the Tribunal is satisfied that the person concerned has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment by the employer or by any person or employee organization it shall determine what, if anything, the employer, person or employee organization shall do or refrain from doing with respect thereto, and such determination may include the hiring or reinstatement in employment of the person concerned, with or without compensation or compensation in lieu of hiring or reinstatement for loss of earnings and other employment benefits for which compensation may be assessed against the employer, person or employee organization, jointly or severally, and the employer, person or employee organization shall, notwithstanding the provisions of any collective agreement, do or abstain from doing anything required of them or any of them by the determination;

- (b) if the Tribunal is satisfied that the person concerned has been suspended, expelled or penalized in any way contrary to section 34 it shall so declare, and thereupon the suspension, expulsion or penalty is void; or
- (c) if the Tribunal is satisfied that the employee organization, employer, person or employee concerned has acted contrary to section 28 or 35, it shall determine what, if anything, the employee organization, employer, person or employee shall do or refrain from doing with respect thereto, and such determination may include compensation for loss of earnings and other employment benefits and the employee organization, employer, person or employee shall, notwithstanding the provisions of any collective agreement, do or abstain from doing anything required of them or it.

Effect of
settlement

(5) Where the matter complained of has been settled, whether through the endeavours of the investigator or otherwise, and the terms of the settlement have been put in writing and signed by the parties or their representatives, the settlement is binding upon the parties, the employee organization, employer, person or employee who have agreed to the settlement and shall be complied with according to its terms, and a complaint that the employee organization, employer, person or employee who has agreed to the settlement has not complied with the terms of the settlement shall be deemed to be a complaint under clause *a*, *b* or *c* of subsection 1, as the case may be.

Declaration
of unlawful
strike

31. Where it is alleged that an employee organization has declared or authorized a strike or that employees are engaging in a strike, the employer may apply to the Tribunal for a declaration that such action would be or is contrary to section 25, and the Tribunal, after affording an opportunity to the employer and the employee organization or to the employees, as the case may be, to be heard on the application, may make such a declaration.

Declaration
of unlawful
lock-out

32. Where it is alleged that the employer has declared or authorized a lock-out or is engaging in a lock-out, any of the employees directly affected thereby or the employee organization concerned may apply to the Tribunal for a declaration that such action was or is contrary to section 25, and the Tribunal after affording an opportunity to the employer and the employees or employee organization, as the case may be, to be heard on the application, may make such a declaration.

33. No person shall do any act if he knows or ought to know that, as a probable and reasonable consequence of the act, another person or persons will take any action contrary to section 25. Causing unlawful strikes, lock-outs

34. No employee organization shall suspend, expel or penalize in any way a member because he has refused to engage in or to continue to engage in any action contrary to section 25. Refusal to engage in unlawful strike

35.—(1) The employer or any person acting on behalf of the employer shall not, Protection of witnesses' rights

- (a) refuse to employ or continue to employ a person;
- (b) threaten dismissal or otherwise threaten a person;
- (c) discriminate against a person in regard to employment or a term or condition of employment; or
- (d) intimidate or coerce or impose a pecuniary or other penalty on a person,

because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceeding under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act.

(2) No employee organization or person acting on behalf of an employee organization shall, Idem

- (a) discriminate against a person in regard to employment or a term or condition of employment; or
- (b) intimidate or coerce or impose a pecuniary or other penalty on a person,

because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceeding under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act.

TRIBUNAL

36.—(1) There shall be a tribunal to be known as the Ontario Public Service Labour Relations Tribunal. Tribunal established

- Composition** (2) The Tribunal shall be composed of one or more adjudicators appointed by the Lieutenant Governor in Council as the Lieutenant Governor in Council considers appropriate.
- Chairman** (3) The Lieutenant Governor in Council shall designate one adjudicator to be the chairman.
- Vacancy** (4) A vacancy in the membership of the Tribunal for any cause may be filled by the Lieutenant Governor in Council.
- Quorum** (5) One adjudicator constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Tribunal.
- Assignment of adjudicators** (6) The chairman shall from time to time assign the adjudicators of the Tribunal to its various sittings and designate one as presiding member for each sitting.
- Decision** (7) Where the Tribunal at any sitting is composed of one adjudicator, his decision constitutes a decision of the Tribunal, and, where the Tribunal at any sitting is composed of more than one adjudicator, a decision of a majority of the adjudicators, constitutes a decision of the Tribunal, provided that in the event of a tie vote, the presiding member has a casting vote.
- Jurisdiction** **37.** The Tribunal has exclusive jurisdiction to exercise the powers conferred upon it by this Act and to determine all questions of fact or law that arise in any matter before it, and, except as otherwise provided in this Act, the action or decision of the Tribunal thereon is final and binding for all purposes, but nevertheless the Tribunal may at any time, if it considers it advisable to do so, reconsider any decision, order, direction, declaration or ruling made by it and vary or revoke any such decision, order, direction, declaration or ruling.
- Question as to whether person an employee** **38.** If, in the course of bargaining for a collective agreement or during the period of operation of a collective agreement, a question arises as to whether a person is an employee, the question may be referred to the Tribunal and its decision thereon is final and binding for all purposes.
- Powers and duties of Tribunal** **39.—(1)** The Tribunal shall exercise such powers and perform such duties as are conferred upon it by this Act, including power,
- (a) to enter any premises of the employer where work is being or has been done by the employees or in which the employer carries on business and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any matter;

- (b) to enter upon the premises of the employer and conduct representation votes during working hours and give such directions in connection with the vote as it considers necessary;
- (c) to authorize any person to do anything that the Tribunal may do under clauses *a* and *b* and to report to the Tribunal thereon;
- (d) to authorize an adjudicator to inquire into any application, request, complaint, matter or thing within the jurisdiction of the Tribunal, or any part of any of them, and to report to the Tribunal thereon;
- (e) to bar an unsuccessful applicant for any period not exceeding ten months from the date of the dismissal of the unsuccessful application, or to refuse to entertain a new application by an unsuccessful applicant or by any of the employees affected by an unsuccessful application or by any person or employee organization representing such employees within any period not exceeding ten months from the date of the dismissal of the unsuccessful application;
- (f) to determine the form in which and the time as of which evidence of membership in an employee organization or of objection by employees to representation rights of an employee organization or of signification by employees that they no longer wish to be represented by an employee organization shall be presented to the Tribunal on an application for representation rights or for a declaration terminating representation rights, and to refuse to accept any evidence of membership or objection or signification that is not presented in the form and as of the time so determined; and
- (g) to administer oaths and affirmations.

(2) Notwithstanding sections 2 and 22, where an application has been made for representation rights of an employee organization as bargaining agent for employees in a bargaining unit or for a declaration that the employee organization no longer represents the employees in a bargaining unit and a final decision of the application has not been issued by the Tribunal at the time a subsequent application for such representation rights or for such a declaration is made with respect to any of the employees affected by the original application, the Tribunal may, Subsequent applications for representation rights, etc

- (a) treat the subsequent application as having been made on the date of the making of the original application;
- (b) postpone consideration of the subsequent application until a final decision has been issued on the original application and thereafter consider the subsequent application but subject to any final decision issued by the Tribunal on the original application; or
- (c) refuse to entertain the subsequent application.

Deter-
mination of
membership

(3) Where the Tribunal is satisfied that an employee organization has an established practice of admitting persons to membership without regard to the eligibility requirements of its charter, constitution or by-laws, the Tribunal in determining whether a person is a member of an employee organization, need not have regard for such eligibility requirements provided that any person so admitted to membership is accorded full membership status for all purposes by the employee organization.

Where choice
between
two or more
employee
organizations

(4) Where, in the taking of a representation vote, the Tribunal determines that the employees are to be given a choice between two or more employee organizations,

- (a) the Tribunal may include on a ballot a choice indicating that an employee does not wish to be represented by an employee organization; and
- (b) the Tribunal, when it decides to hold such additional representation votes as may be necessary, may eliminate from the choice on the ballot the choice from the previous ballot that has obtained the lowest number of votes cast.

Stated case

40.—(1) The Tribunal may of its own motion and shall upon the request of any party state a case in writing to the Court of Appeal upon any question of law.

Court to
hear and
determine
stated case

(2) Where a case is stated under this section, the Court of Appeal shall hear and determine in a summary manner the question raised.

Proceedings
stayed

(3) Pending the decision of the Court of Appeal on a case stated under this section, no further proceedings shall be taken by the Tribunal with respect to the subject-matter of the stated case but it may continue its inquiry into matters not in issue in the stated case.

41.—(1) The Tribunal shall determine its own practice and procedure but shall afford to the parties to any proceedings an opportunity for a hearing to present their evidence and to make their submissions, and the Tribunal may, subject to the approval of the Lieutenant Governor in Council, make rules, not inconsistent with the provisions of this Act, governing its practice and procedure and the exercise of its powers. Procedure

(2) *The Statutory Powers Procedure Act, 1971* applies to the proceedings of the Tribunal. Application of 1971, c. 47

OFFENCES

42.—(1) Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 for each day upon which such contravention occurs or continues. Contra-
vention of
Act by
person

(2) Every employee organization that contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 for every day upon which such contravention occurs or continues. Contra-
vention of
Act by
employee
organization

(3) If an employee organization is guilty of an offence under this Act, every officer or representative thereof who assented to the commission of the offence shall be deemed to be a party to and guilty of the offence and is liable to a fine under subsection 1 as if he had been convicted of an offence under subsection 1. When
officers also
guilty of
offence

(4) An information in respect of a contravention of any provision of this Act may be for one or more offences and no information, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. Informa-
tion

(5) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Tribunal, which may only be granted after affording an opportunity to the parties or to the employees, as the case may be, to be heard. Consent

43. A prosecution for an offence may be brought against an employee organization in the name of that organization, and, for the purposes of any such prosecution, an employee organization shall be deemed to be a person, and any act or thing done or omitted by an officer or representative of an employee organization within the apparent scope of his Prosecution
of employee
organization

authority to act on behalf of the employee organization shall be deemed to be an act or thing done or omitted by the employee organization.

GENERAL

Trusteeship
over
employee
organization

44.—(1) If the autonomy of an employee organization is suspended under the constitution and by-laws of its parent body, written notice thereof shall be given the Tribunal by the parent body within thirty days of the commencement of such suspension together with a statement in the prescribed form, verified by the affidavit of its principal officers, setting out the terms under which supervision or control is to be exercised and it shall, upon the direction of the Tribunal, file such additional information as the Tribunal from time to time may require.

Duration of
trusteeship

(2) Any such supervision or control shall not continue for more than twelve months from the date of such suspension but such supervision or control may be continued for such further period as the Tribunal may prescribe.

Information

45.—(1) Every employee organization having representation rights under this Act shall, within three months after the coming into force of this Act and thereafter within three months after the end of each calendar year, file a statement with the Tribunal, certified as to the truth and accuracy thereof by the president and the treasurer, containing the following particulars:

- (a) the name of the organization;
- (b) the address of the headquarters of the organization in Ontario to which communications for the purposes of this Act may be directed;
- (c) the constitution and by-laws of the organization;
- (d) the name and address of each officer of the organization and the position held by each such officer;
- (e) the name and address of each officer and employee of the organization resident in Canada (other than a person performing primarily clerical or stenographic duties), the position held by each such officer and employee and the manner in which he was elected or appointed;
- (f) a financial statement for the latest complete fiscal year or, if the employee organization has not been in

existence for a complete fiscal year, for the period it has been in existence, consisting of,

- (i) a balance sheet showing the assets and liabilities of the organization made up for such fiscal year, and
- (ii) a statement of income and expenditure for such fiscal year, in such form and containing such particulars and other information relating to the financial position of the organization as may be prescribed by the regulations.

(2) Every financial statement shall be certified by a person licensed under *The Public Accountancy Act* and shall be accompanied by an affidavit completed by the president and treasurer of the employee organization affirming that throughout the fiscal period reported upon the employee organization was at all times qualified as an employee organization under this Act. Financial statement
R.S.O. 1970,
c. 373

(3) An employee organization having representation rights under this Act shall publish for its members its financial statement in the same form and within the same periods prescribed under subsections 1 and 2. Publication
of financial
statement

(4) Each party to a collective agreement shall forthwith after it is made, file one copy thereof with the Tribunal. Copy of
agreement
to be filed
with Tribunal

46. Any action or proceeding to restrain a contravention or otherwise enforce the provisions of this Act may be commenced in the Supreme Court after notice has been given to the employees affected by posting or publication in such manner as the Tribunal may direct, and in the case of an employee organization by service thereupon at the address shown in the statement required pursuant to subsection 1 of section 45. Enforcement
of Act

47. No member of the Tribunal or of a board or of the Public Service Grievance Board and no person appointed thereby or a mediator appointed under this Act shall be required to give evidence in any civil action, suit or other proceeding respecting information obtained in the discharge of his duties under this Act. Protection
against
giving
evidence in
civil actions

48.—(1) For the purposes of this Act and of any proceedings taken under it, any notice or communication, except in relation to a final decision or order of the Tribunal, sent through Her Majesty's mails shall be presumed, unless the contrary is proved, to have been received by the addressee in the ordinary course of mail. Mailed
notices

Time of
making
certain
applications

(2) An application for representation rights or for a declaration that an employee organization no longer represents the employees in a bargaining unit, if sent by registered mail addressed to the Tribunal at Toronto, shall be deemed to have been made on the date on which it was so mailed.

Time of
release of
documents

(3) A decision, determination, report, interim order, order, direction, declaration or ruling of the board, a notice from the Tribunal that it does not deem it advisable to appoint a mediator or a decision of a board,

(a) if sent by mail to the person, employer or employee organization concerned addressed to him or it at his or its last-known address, shall be deemed to have been released on the second day after the day on which it was so mailed; or

(b) if delivered to a person, the employer or employee organization concerned at his or its last-known address, shall be deemed to have been released on the day next after the day on which it was so delivered.

Secrecy as
to union
membership

49.—(1) The records of an employee organization relating to membership or any records that may disclose whether a person is or is not a member of an employee organization or does or does not desire to be represented by an employee organization produced in a proceeding before the Tribunal is for the exclusive use of the Tribunal and its officers and shall not, except with the consent of the Tribunal, be disclosed, and no person shall, except with the consent of the Tribunal, be compelled to disclose whether a person is or is not a member of an employee organization or does or does not desire to be represented by an employee organization.

Non-
disclosure

(2) No information or material furnished to or received by a mediator under this Act shall be disclosed, except to the Tribunal, unless otherwise authorized by the party providing the information or material.

Idem

(3) No report of a mediator shall be disclosed except to the Tribunal.

Competency
as witness

(4) A mediator appointed under this Act is not a competent or compellable witness in proceedings before a court or other tribunal respecting any information, material or report mentioned in subsection 2 or 3, or respecting any information or material furnished to or received by him, or any statement made to or by him in an endeavour to effect a collective agreement.

(5) The chairman or any other member of a board of arbitration is not a competent or compellable witness in proceedings before a court or other tribunal respecting,

- (a) any information or material furnished to or received by him;
- (b) any evidence or representation submitted to him; or
- (c) any statement made by him,

in the course of his duties under this Act.

50. No proceedings under this Act are invalid by reason of any defect of form or any technical irregularity and no such proceedings shall be quashed or set aside if no substantial wrong or miscarriage of justice has occurred. ^{Defects in form; technical irregularities}

51. The Lieutenant Governor in Council may make regulations, ^{Regulations}

- (a) designating the body to represent any agency of the Crown for the purpose of clause *i* of subsection 1 of section 1;
- (b) prescribing the form and content of a statement of income and expenditure of an employee organization;
- (c) providing for and fixing the remuneration and expenses of the chairman and other members of a board and the chairman and other members of the Tribunal;
- (d) designating,
 - (i) units of employees that are appropriate bargaining units for collective bargaining purposes under this Act, and
 - (ii) designating the employee organization that shall have representation rights in relation to each of such bargaining units,

upon the day this Act comes into force;

- (e) prescribing forms and providing for their use.

52. The moneys required by the Crown for the purposes of this Act shall, until the end of March, 1973, be paid out ^{Moneys required for Act}

of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

Commence-
ment

53. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

54. This Act may be cited as *The Crown Employees Collective Bargaining Act, 1972*.

An Act to provide for
Collective Bargaining for Crown Employees

1st Reading

May 4th, 1972

2nd Reading

May 9th, 1972

3rd Reading

May 30th, 1972

THE HON. C. MACNAUGHTON
Chairman, Management Board of Cabinet

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Public Service Act

THE HON. C. MACNAUGHTON
Chairman, Management Board of Cabinet

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

EXPLANATORY NOTES

SECTION 1. The amendment is complementary to *The Crown Employees Collective Bargaining Act, 1972* and includes employees of the Workmen's Compensation Board in the definition of Crown employee.

SECTIONS 2 and 3. These amendments are complementary to *The Government Reorganization Act, 1972* and continue the chairman of the Commission with the rank of a deputy minister and provide for the staff of the Commission.

SECTION 4. The amendment substitutes a reference to *The Crown Employees Collective Bargaining Act, 1972* in place of the reference to the former bargaining provisions in sections 27 and 28 of *The Public Service Act*.

SECTION 5. The provision is deleted as obsolete.

SECTION 6. Sections 27 and 28 are repealed as they will be replaced by *The Crown Employees Collective Bargaining Act, 1972*. The new provisions contained in sections 27 and 28 deal with bargaining for members of the Ontario Provincial Police Force. The Ontario Provincial Police Negotiating Committee and the Arbitration Committee are continued and the present provisions in the regulations under *The Public Service Act* are transferred into this Act. The bargaining authority is spelled out in more detail in conformity with *The Crown Employees Collective Bargaining Act, 1972*.

The new section 28a provides for the implementation of collective agreements and awards and decisions of the Ontario Provincial Police Negotiating and Arbitration Committees.

BILL 106

1972

An Act to amend The Public Service Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *e* of section 1 of *The Public Service Act*, being ^{s. 1 (e),} amended chapter 386 of the Revised Statutes of Ontario, 1970, is amended by striking out "the Workmen's Compensation Board" in the fourth and fifth lines.

2. Section 2 of the said Act is amended by adding thereto ^{s. 2,} amended the following subsection:

- (3) The chairman of the Commission shall rank as and ^{Chairman} have all the powers and duties of a deputy minister ^{to rank as} of a ministry. ^{deputy} ^{minister}

3. Section 3 of the said Act, as amended by the Statutes ^{s. 3,} amended of Ontario, 1972, chapter 1, section 107, is further amended by adding thereto the following subsection:

- (2) The staff of the Commission is responsible to the ^{Staff} chairman of the Commission and shall consist of such officers and servants appointed under this Act as are necessary for the proper conduct of the business of the Commission.

4. Clause *b* of section 4 of the said Act is amended by ^{s. 4 (b),} amended striking out "negotiation under section 27 or 28" in the fourth line and inserting in lieu thereof "bargaining pursuant to *The Crown Employees Collective Bargaining Act, 1972*".

5. Subsection 2 of section 17 of the said Act is repealed. ^{s. 17 (2),} repealed

6. Sections 27 and 28 of the said Act are repealed and ^{ss. 27, 28,} re-enacted the following substituted therefor:

27.—(1) In this section, Interpre-
tation

- (a) "agreement" means an agreement in writing between the Crown on the one hand and the Association on the other hand;
- (b) "Arbitration Committee" means the Ontario Provincial Police Arbitration Committee;
- (c) "Association" means an association including only members of the Ontario Provincial Police Force which is not affiliated directly or indirectly with a trade union or with any organization that is affiliated directly or indirectly with a trade union and which represents a majority of such members to whom sections 27 and 28 apply for the purposes of collective bargaining;
- (d) "Negotiating Committee" means the Ontario Provincial Police Negotiation Committee.

Application
of sections
27, 28

- (2) Sections 27 and 28 apply to members of the Ontario Provincial Police Force who are cadets, probationary constables, constables, corporals, sergeants and staff sergeants including detective-sergeants, traffic sergeants and identification sergeants.

Bargaining
authority

- (3) The Association is the exclusive bargaining agent authorized to represent the members of the Ontario Provincial Police Force in bargaining on rates of remuneration, hours of work, overtime and other premium allowance for work performed, benefits pertaining to time not worked by employees including, paid holidays, paid vacations, group life insurance, health insurance and long-term income protection insurance, the procedures applicable to the processing of grievances, the methods of effecting promotions, demotions, transfers, lay-offs or reappointments and the conditions applicable to leaves of absence for other than any elective public office, political activities or training and development.

Exclusive
functions of
employer

R.S.O. 1970,
c. 351

- (4) Except in relation to matters governed by or under *The Police Act*, every collective agreement shall be deemed to provide that it is the exclusive function of the employer to manage including the right to determine employment, appointment, complement, organization, work methods and procedures, kinds and location of equipment, assignment, classification, job evaluation system, merit system, appraisal, superannuation and the principles and standards governing

the promotion, demotion, transfer, lay-off, reappointment, discipline and termination of employment, and that such matters will not be the subject of collective bargaining nor come within the jurisdiction of the Negotiating Committee or the Arbitration Committee.

- (5) The Ontario Provincial Police Negotiating Committee^{Negotiating Committee} appointed by the Lieutenant Governor in Council is continued and shall be composed of,
 - (a) three members appointed by the Lieutenant Governor in Council on the recommendation of the Association to be known as the "staff side";
 - (b) three members appointed by the Lieutenant Governor in Council to be known as the "employer side"; and
 - (c) a chairman appointed by the Lieutenant Governor in Council who shall not be a member of the staff side or of the employer side and who shall not vote.
- (6) The Lieutenant Governor in Council may appoint a^{Acting chairman} person who is not a member of the staff side or of the employer side to act as chairman when the chairman is absent.
- (7) The chairman of the Negotiating Committee shall,^{Duties of chairman}
 - (a) at the request of a member convene a meeting of the Negotiating Committee;
 - (b) prepare the agenda for each meeting; and
 - (c) preside at each meeting.
- (8) Subject to subsection 7, at the request of a member^{Agenda} of the Negotiating Committee, the chairman shall place upon the agenda any matter concerning,
 - (a) the amendment or renewal of an agreement or any matter that may be the subject of bargaining under this section so long as the request is made not earlier than ninety days and not later than sixty days before the expiration date of the agreement; or
 - (b) the interpretation or clarification of any clause in an agreement.

Idem

(9) Notwithstanding clause *a* of subsection 8, where,

- (a) a member of the Negotiating Committee requests that there be placed on the agenda a matter concerning the amendment or renewal of an agreement or any matter that may be the subject of bargaining under this section; and
- (b) both the staff side and the employer side of the Negotiating Committee consent that the matter referred to in clause *a* be placed on the agenda,

the chairman shall place the matter on the agenda notwithstanding that the request may have been made earlier than ninety days or later than sixty days, before the expiration date of the agreement.

Quorum

(10) A quorum of the Negotiating Committee consists of,

- (a) the chairman;
- (b) two members of the staff side; and
- (c) two members of the employer side.

Matters to be negotiated

(11) The Negotiating Committee shall negotiate such matters as are put on its agenda under subsections 8 and 9.

Grievance procedure

(12) The Negotiating Committee may establish a grievance procedure to deal with any complaint of an employee concerning working conditions or terms of employment other than a complaint to which *The Police Act* or the Code of Offences contained in the regulations made thereunder applies.

R.S.O. 1970,
c. 351

Decision

(13) Every decision of the Negotiating Committee shall be in writing and in three copies and each copy shall be signed by the chairman and by a representative of the staff side and by a representative of the employer side.

When binding

(14) A decision of the Negotiating Committee shall not be binding on the staff side or the employer side until the decision has been approved in the manner set out in subsection 15 and transmitted by the chairman for implementation as set out in subsection 16.

- (15) Approval of a decision of the Negotiating Committee shall be, ^{Approval}
- (a) on the staff side, by a decision of the Board of Directors of the Association; and
 - (b) on the employer side, by a decision of the Management Board of Cabinet.
- (16) The chairman of the Negotiating Committee shall ^{Implementation} transmit every decision of the Negotiating Committee to the proper authority to be implemented.
- 28.—(1) The Ontario Provincial Police Arbitration Committee, appointed by the Lieutenant Governor in Council, is continued and shall be composed of, ^{Arbitration Committee}
- (a) a chairman appointed for a renewable term of two years;
 - (b) one member recommended by the staff side of the Negotiating Committee; and
 - (c) one member recommended by the employer side of the Negotiating Committee.
- (2) Where a majority of the members of the Negotiating Committee is unable to agree upon any matter, the chairman shall, at the request of a member, refer the matter to the Arbitration Committee who shall, after a hearing, decide the matter and the decision of the Arbitration Committee is final and binding on the Crown, the Association and the members of the Association referred to in subsection 2 of section 27. ^{Reference}
- (3) Every decision of the Arbitration Committee shall ^{Decision} be in writing and shall be signed by the chairman and at least one member and shall be transmitted to the chairman of the Negotiating Committee.
- (4) The chairman of the Negotiating Committee shall ^{Implementation} transmit the decision of the Arbitration Committee to the proper authority to be implemented.
- 28a. Collective agreements and awards made in accordance with the collective bargaining procedures applicable to Crown employees and approved decisions of the Negotiating Committee under section 27 and decisions of the Arbitration Committee under section 28 shall ^{Implementation of collective agreements, etc.}

be implemented by the Lieutenant Governor in Council by order in council.

s. 29 (1) (b)
amended

7.—(1) Clause *b* of subsection 1 of section 29 of the said Act is amended by striking out “negotiation under section 27 or 28” in the fourth line and inserting in lieu thereof “bargaining pursuant to *The Crown Employees Collective Bargaining Act, 1972*”.

s. 29 (1) (t),
re-enacted

(2) Clause *t* of subsection 1 of the said section 29 is repealed and the following substituted therefor:

(t) prescribing the rules of procedure governing proceedings of the Negotiating Committee and the Arbitration Committee.

s. 29,
amended

(3) The said section 29 is amended by adding thereto the following subsection:

Where agree-
ment in
conflict with
regulation

(3) Any provision in a collective agreement that is in conflict with a provision of a regulation as it affects the employees of a bargaining unit covered by the collective agreement prevails over the provision of the regulation.

Commence-
ment

8.—(1) This Act, except sections 1, 2, 3, 4, 6 and 7, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 2 and 3 shall be deemed to have come into force on the 1st day of April, 1972.

Idem

(3) Sections 1, 4, 6 and 7 come into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

9. This Act may be cited as *The Public Service Amendment Act, 1972*.

SECTION 7.—Subsection 1. See note to section 4.

Subsection 2. The Lieutenant Governor in Council is authorized to make regulations prescribing the rules of procedure governing the proceedings of the Negotiating and Arbitration Committees.

Subsection 3. The new subsection provides that where any provision of a collective agreement is in conflict with a provision in a regulation, the provision in the collective agreement prevails.

An Act to amend
The Public Service Act

1st Reading

May 4th, 1972

2nd Reading

3rd Reading

THE HON. C. MACNAUGHTON
Chairman, Management Board of Cabinet

((Government Bill))

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Public Service Act

THE HON. C. MACNAUGHTON
Chairman, Management Board of Cabinet

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. The amendment is complementary to *The Crown Employees Collective Bargaining Act, 1972* and includes employees of the Workmen's Compensation Board in the definition of Crown employee.

SECTIONS 2 and 3. These amendments are complementary to *The Government Reorganization Act, 1972* and continue the chairman of the Commission with the rank of a deputy minister and provide for the staff of the Commission.

SECTION 4. The amendment substitutes a reference to *The Crown Employees Collective Bargaining Act, 1972* in place of the reference to the former bargaining provisions in sections 27 and 28 of *The Public Service Act*.

SECTION 5. The provision is deleted as obsolete.

SECTION 6. Sections 27 and 28 are repealed as they will be replaced by *The Crown Employees Collective Bargaining Act, 1972*. The new provisions contained in sections 27 and 28 deal with bargaining for members of the Ontario Provincial Police Force. The Ontario Provincial Police Negotiating Committee and the Arbitration Committee are continued and the present provisions in the regulations under *The Public Service Act* are transferred into this Act. The bargaining authority is spelled out in more detail in conformity with *The Crown Employees Collective Bargaining Act, 1972*.

The new section 28a provides for the implementation of collective agreements and awards and decisions of the Ontario Provincial Police Negotiating and Arbitration Committees.

BILL 106

1972

An Act to amend The Public Service Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *e* of section 1 of *The Public Service Act*, being ^{s. 1 (e)} amended chapter 386 of the Revised Statutes of Ontario, 1970, is amended by striking out "the Workmen's Compensation Board" in the fourth and fifth lines.

2. Section 2 of the said Act is amended by adding thereto ^{s. 2,} amended the following subsection:

- (3) The chairman of the Commission shall rank as and ^{Chairman to rank as} have all the powers and duties of a deputy minister ^{deputy minister} of a ministry.

3. Section 3 of the said Act, as amended by the Statutes ^{s. 3,} amended of Ontario, 1972, chapter 1, section 107, is further amended by adding thereto the following subsection:

- (2) The staff of the Commission is responsible to the ^{Staff} chairman of the Commission and shall consist of such officers and servants appointed under this Act as are necessary for the proper conduct of the business of the Commission.

4. Clause *b* of section 4 of the said Act is amended by ^{s. 4 (b),} amended striking out "negotiation under section 27 or 28" in the fourth line and inserting in lieu thereof "bargaining pursuant to *The Crown Employees Collective Bargaining Act, 1972*".

5. Subsection 2 of section 17 of the said Act is repealed. ^{s. 17 (2),} repealed

6. Sections 27 and 28 of the said Act are repealed and ^{ss. 27, 28,} re-enacted the following substituted therefor:

27.—(1) In this section,

Interpre-
tation

- (a) "agreement" means an agreement in writing between the Crown on the one hand and the Association on the other hand;
- (b) "Arbitration Committee" means the Ontario Provincial Police Arbitration Committee;
- (c) "Association" means an association including only members of the Ontario Provincial Police Force which is not affiliated directly or indirectly with a trade union or with any organization that is affiliated directly or indirectly with a trade union and which represents a majority of such members to whom sections 27 and 28 apply for the purposes of collective bargaining;
- (d) "Negotiating Committee" means the Ontario Provincial Police Negotiation Committee.

Application
of sections
27, 28

- (2) Sections 27 and 28 apply to members of the Ontario Provincial Police Force who are cadets, probationary constables, constables, corporals, sergeants and staff sergeants including detective-sergeants, traffic sergeants and identification sergeants.

Bargaining
authority

- (3) The Association is the exclusive bargaining agent authorized to represent the members of the Ontario Provincial Police Force, in bargaining with the employer on terms and conditions of employment, except as to matters that are exclusively the function of the employer under subsection 4, and, without limiting the generality of the foregoing, including rates of remuneration, hours of work, overtime and other premium allowance for work performed, the mileage rate payable to a member for miles travelled when he is required to use his own automobile on the employer's business, benefits pertaining to time not worked by members, including paid holidays, paid vacations, group life insurance, health insurance and long-term income protection insurance, the procedures applicable to the processing of grievances, the methods of effecting promotions, demotions, transfers, lay-offs or reappointments and the conditions applicable to leaves of absence for other than any elective public office, political activities or training and development.

- (4) Except in relation to matters governed by or under *The Police Act*, every collective agreement shall be deemed to provide that it is the exclusive function of the employer to manage, which function, without limiting the generality of the foregoing, includes the right to determine employment, appointment, complement, organization, work methods and procedures, kinds and location of equipment, discipline and termination of employment, assignment, classification, job evaluation system, merit system, training and development, appraisal, superannuation and the principles and standards governing promotion, demotion, transfer, lay-off and reappointment, and that such matters will not be the subject of collective bargaining nor come within the jurisdiction of the Negotiating Committee or the Arbitration Committee. ^{Exclusive functions of employer R.S.O. 1970, c. 351}
- (5) The Ontario Provincial Police Negotiating Committee appointed by the Lieutenant Governor in Council is continued and shall be composed of, ^{Negotiating Committee}
- (a) three members appointed by the Lieutenant Governor in Council on the recommendation of the Association to be known as the "staff side";
 - (b) three members appointed by the Lieutenant Governor in Council to be known as the "employer side"; and
 - (c) a chairman appointed by the Lieutenant Governor in Council who shall not be a member of the staff side or of the employer side and who shall not vote.
- (6) The Lieutenant Governor in Council may appoint a person who is not a member of the staff side or of the employer side to act as chairman when the chairman is absent. ^{Acting chairman}
- (7) The chairman of the Negotiating Committee shall, ^{Duties of chairman}
- (a) at the request of a member convene a meeting of the Negotiating Committee;
 - (b) prepare the agenda for each meeting; and
 - (c) preside at each meeting.
- (8) Subject to subsection 7, at the request of a member of the Negotiating Committee, the chairman shall place upon the agenda any matter concerning, ^{Agenda}

- (a) the amendment or renewal of an agreement or any matter that may be the subject of bargaining under this section so long as the request is made not earlier than ninety days and not later than sixty days before the expiration date of the agreement; or
- (b) the interpretation or clarification of any clause in an agreement.

Idem

(9) Notwithstanding clause *a* of subsection 8, where,

- (a) a member of the Negotiating Committee requests that there be placed on the agenda a matter concerning the amendment or renewal of an agreement or any matter that may be the subject of bargaining under this section; and
- (b) both the staff side and the employer side of the Negotiating Committee consent that the matter referred to in clause *a* be placed on the agenda,

the chairman shall place the matter on the agenda notwithstanding that the request may have been made earlier than ninety days or later than sixty days, before the expiration date of the agreement.

Quorum

- (10) A quorum of the Negotiating Committee consists of,
- (a) the chairman;
 - (b) two members of the staff side; and
 - (c) two members of the employer side.

Matters to be negotiated

- (11) The Negotiating Committee shall negotiate such matters as are put on its agenda under subsections 8 and 9.

Grievance procedure

- (12) The Negotiating Committee may establish a grievance procedure to deal with any complaint of an employee concerning working conditions or terms of employment other than a complaint to which *The Police Act* or the Code of Offences contained in the regulations made thereunder applies.

R.S.O. 1970,
c. 351

Decision

- (13) Every decision of the Negotiating Committee shall be in writing and in three copies and each copy shall be signed by the chairman and by a representative of the staff side and by a representative of the employer side.

When binding

- (14) A decision of the Negotiating Committee shall not be binding on the staff side or the employer side until

the decision has been approved in the manner set out in subsection 15 and transmitted by the chairman for implementation as set out in subsection 16.

- (15) Approval of a decision of the Negotiating Committee shall be,
 - (a) on the staff side, by a decision of the Board of Directors of the Association; and
 - (b) on the employer side, by a decision of the Management Board of Cabinet.
- (16) The chairman of the Negotiating Committee shall transmit every decision of the Negotiating Committee to the proper authority to be implemented. ^{Implementation}
- 28.—(1) The Ontario Provincial Police Arbitration Committee, appointed by the Lieutenant Governor in Council, is continued and shall be composed of, ^{Arbitration Committee}
 - (a) a chairman appointed for a renewable term of two years;
 - (b) one member recommended by the staff side of the Negotiating Committee; and
 - (c) one member recommended by the employer side of the Negotiating Committee.
- (2) Where a majority of the members of the Negotiating Committee is unable to agree upon any matter, the chairman shall, at the request of a member, refer the matter to the Arbitration Committee who shall, after a hearing, decide the matter and the decision of the Arbitration Committee is final and binding on the Crown, the Association and the members of the Association referred to in subsection 2 of section 27. ^{Reference}
- (3) Every decision of the Arbitration Committee shall be in writing and shall be signed by the chairman and at least one member and shall be transmitted to the chairman of the Negotiating Committee. ^{Decision}
- (4) The chairman of the Negotiating Committee shall transmit the decision of the Arbitration Committee to the proper authority to be implemented. ^{Implementation}

Implementa-
tion of
collective
agreements,
etc.

28a. Collective agreements and awards made in accordance with the collective bargaining procedures applicable to Crown employees and approved decisions of the Negotiating Committee under section 27 and decisions of the Arbitration Committee under section 28 shall be implemented by the Lieutenant Governor in Council by order in council.

s. 29 (1) (b)
amended

7.—(1) Clause *b* of subsection 1 of section 29 of the said Act is amended by striking out “negotiation under section 27 or 28” in the fourth line and inserting in lieu thereof “bargaining pursuant to *The Crown Employees Collective Bargaining Act, 1972*”.

s. 29 (1) (t),
re-enacted

(2) Clause *t* of subsection 1 of the said section 29 is repealed and the following substituted therefor:

(t) prescribing the rules of procedure governing proceedings of the Negotiating Committee and the Arbitration Committee.

s. 29,
amended

(3) The said section 29 is amended by adding thereto the following subsection:

Where agree-
ment in
conflict with
regulation

(3) Any provision in a collective agreement that is in conflict with a provision of a regulation as it affects the employees of a bargaining unit covered by the collective agreement prevails over the provision of the regulation.

Commence-
ment

8.—(1) This Act, except sections 1, 2, 3, 4, 6 and 7, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 2 and 3 shall be deemed to have come into force on the 1st day of April, 1972.

Idem

(3) Sections 1, 4, 6 and 7 come into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

9. This Act may be cited as *The Public Service Amendment Act, 1972*.

SECTION 7.—Subsection 1. See note to section 4.

Subsection 2. The Lieutenant Governor in Council is authorized to make regulations prescribing the rules of procedure governing the proceedings of the Negotiating and Arbitration Committees.

Subsection 3. The new subsection provides that where any provision of a collective agreement is in conflict with a provision in a regulation, the provision in the collective agreement prevails.

An Act to amend
The Public Service Act

1st Reading

May 4th, 1972

2nd Reading

June 27th, 1972

3rd Reading

THE HON. C. MACNAUGHTON
Chairman, Management Board of Cabinet

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 106

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Public Service Act

THE HON. C. MACNAUGHTON
Chairman, Management Board of Cabinet

TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER AND PUBLISHER

BILL 106

1972

An Act to amend The Public Service Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *e* of section 1 of *The Public Service Act*, being ^{s. 1 (e),} amended chapter 386 of the Revised Statutes of Ontario, 1970, is amended by striking out "the Workmen's Compensation Board" in the fourth and fifth lines.

2. Section 2 of the said Act is amended by adding thereto ^{s. 2,} amended the following subsection:

(3) The chairman of the Commission shall rank as and ^{Chairman} have all the powers and duties of a deputy minister ^{to rank as} of a ministry. ^{deputy} ^{minister}

3. Section 3 of the said Act, as amended by the Statutes ^{s. 3,} amended of Ontario, 1972, chapter 1, section 107, is further amended by adding thereto the following subsection:

(2) The staff of the Commission is responsible to the ^{Staff} chairman of the Commission and shall consist of such officers and servants appointed under this Act as are necessary for the proper conduct of the business of the Commission.

4. Clause *b* of section 4 of the said Act is amended by ^{s. 4 (b),} amended striking out "negotiation under section 27 or 28" in the fourth line and inserting in lieu thereof "bargaining pursuant to *The Crown Employees Collective Bargaining Act, 1972*".

5. Subsection 2 of section 17 of the said Act is repealed. ^{s. 17 (2),} repealed

6. Sections 27 and 28 of the said Act are repealed and ^{ss. 27, 28,} re-enacted the following substituted therefor:

27.—(1) In this section,

Interpre-
tation

- (a) "agreement" means an agreement in writing between the Crown on the one hand and the Association on the other hand;
- (b) "Arbitration Committee" means the Ontario Provincial Police Arbitration Committee;
- (c) "Association" means an association including only members of the Ontario Provincial Police Force which is not affiliated directly or indirectly with a trade union or with any organization that is affiliated directly or indirectly with a trade union and which represents a majority of such members to whom sections 27 and 28 apply for the purposes of collective bargaining;
- (d) "Negotiating Committee" means the Ontario Provincial Police Negotiation Committee.

Application
of sections
27, 28

- (2) Sections 27 and 28 apply to members of the Ontario Provincial Police Force who are cadets, probationary constables, constables, corporals, sergeants and staff sergeants including detective-sergeants, traffic sergeants and identification sergeants.

Bargaining
authority

- (3) The Association is the exclusive bargaining agent authorized to represent the members of the Ontario Provincial Police Force, in bargaining with the employer on terms and conditions of employment, except as to matters that are exclusively the function of the employer under subsection 4, and, without limiting the generality of the foregoing, including rates of remuneration, hours of work, overtime and other premium allowance for work performed, the mileage rate payable to a member for miles travelled when he is required to use his own automobile on the employer's business, benefits pertaining to time not worked by members, including paid holidays, paid vacations, group life insurance, health insurance and long-term income protection insurance, the procedures applicable to the processing of grievances, the methods of effecting promotions, demotions, transfers, lay-offs or reappointments and the conditions applicable to leaves of absence for other than any elective public office, political activities or training and development.

- (4) Except in relation to matters governed by or under *The Police Act*, every collective agreement shall be deemed to provide that it is the exclusive function of the employer to manage, which function, without limiting the generality of the foregoing, includes the right to determine employment, appointment, complement, organization, work methods and procedures, kinds and location of equipment, discipline and termination of employment, assignment, classification, job evaluation system, merit system, training and development, appraisal, superannuation and the principles and standards governing promotion, demotion, transfer, lay-off and reappointment, and that such matters will not be the subject of collective bargaining nor come within the jurisdiction of the Negotiating Committee or the Arbitration Committee.
- (5) The Ontario Provincial Police Negotiating Committee appointed by the Lieutenant Governor in Council is continued and shall be composed of,
- (a) three members appointed by the Lieutenant Governor in Council on the recommendation of the Association to be known as the "staff side";
 - (b) three members appointed by the Lieutenant Governor in Council to be known as the "employer side"; and
 - (c) a chairman appointed by the Lieutenant Governor in Council who shall not be a member of the staff side or of the employer side and who shall not vote.
- (6) The Lieutenant Governor in Council may appoint a person who is not a member of the staff side or of the employer side to act as chairman when the chairman is absent.
- (7) The chairman of the Negotiating Committee shall,
- (a) at the request of a member convene a meeting of the Negotiating Committee;
 - (b) prepare the agenda for each meeting; and
 - (c) preside at each meeting.
- (8) Subject to subsection 7, at the request of a member of the Negotiating Committee, the chairman shall place upon the agenda any matter concerning,

Exclusive
functions of
employer
R.S.O. 1970,
c. 351

Negotiating
Committee

Acting
chairman

Duties of
chairman

Agenda

- (a) the amendment or renewal of an agreement or any matter that may be the subject of bargaining under this section so long as the request is made not earlier than ninety days and not later than sixty days before the expiration date of the agreement; or
- (b) the interpretation or clarification of any clause in an agreement.

Idem

- (9) Notwithstanding clause *a* of subsection 8, where,

- (a) a member of the Negotiating Committee requests that there be placed on the agenda a matter concerning the amendment or renewal of an agreement or any matter that may be the subject of bargaining under this section; and
- (b) both the staff side and the employer side of the Negotiating Committee consent that the matter referred to in clause *a* be placed on the agenda,

the chairman shall place the matter on the agenda notwithstanding that the request may have been made earlier than ninety days or later than sixty days, before the expiration date of the agreement.

Quorum

- (10) A quorum of the Negotiating Committee consists of,
- (a) the chairman;
 - (b) two members of the staff side; and
 - (c) two members of the employer side.

Matters to be negotiated

- (11) The Negotiating Committee shall negotiate such matters as are put on its agenda under subsections 8 and 9.

Grievance procedure

- (12) The Negotiating Committee may establish a grievance procedure to deal with any complaint of an employee concerning working conditions or terms of employment other than a complaint to which *The Police Act* or the Code of Offences contained in the regulations made thereunder applies.

R.S.O. 1970,
c. 351

Decision

- (13) Every decision of the Negotiating Committee shall be in writing and in three copies and each copy shall be signed by the chairman and by a representative of the staff side and by a representative of the employer side.

When binding

- (14) A decision of the Negotiating Committee shall not be binding on the staff side or the employer side until

the decision has been approved in the manner set out in subsection 15 and transmitted by the chairman for implementation as set out in subsection 16.

- (15) Approval of a decision of the Negotiating Committee shall be, ^{Approval}

(a) on the staff side, by a decision of the Board of Directors of the Association; and

(b) on the employer side, by a decision of the Management Board of Cabinet.

- (16) The chairman of the Negotiating Committee shall transmit every decision of the Negotiating Committee to the proper authority to be implemented. ^{Implementation}

- 28.—(1) The Ontario Provincial Police Arbitration Committee, appointed by the Lieutenant Governor in Council, is continued and shall be composed of, ^{Arbitration Committee}

(a) a chairman appointed for a renewable term of two years;

(b) one member recommended by the staff side of the Negotiating Committee; and

(c) one member recommended by the employer side of the Negotiating Committee.

- (2) Where a majority of the members of the Negotiating Committee is unable to agree upon any matter, the chairman shall, at the request of a member, refer the matter to the Arbitration Committee who shall, after a hearing, decide the matter and the decision of the Arbitration Committee is final and binding on the Crown, the Association and the members of the Association referred to in subsection 2 of section 27. ^{Reference}

- (3) Every decision of the Arbitration Committee shall be in writing and shall be signed by the chairman and at least one member and shall be transmitted to the chairman of the Negotiating Committee. ^{Decision}

- (4) The chairman of the Negotiating Committee shall transmit the decision of the Arbitration Committee to the proper authority to be implemented. ^{Implementation}

Implementa-
tion of
collective
agreements,
etc.

28a. Collective agreements and awards made in accordance with the collective bargaining procedures applicable to Crown employees and approved decisions of the Negotiating Committee under section 27 and decisions of the Arbitration Committee under section 28 shall be implemented by the Lieutenant Governor in Council by order in council.

s. 29 (1) (b)
amended

7.—(1) Clause *b* of subsection 1 of section 29 of the said Act is amended by striking out "negotiation under section 27 or 28" in the fourth line and inserting in lieu thereof "bargaining pursuant to *The Crown Employees Collective Bargaining Act, 1972*".

s. 29 (1) (t),
re-enacted

(2) Clause *t* of subsection 1 of the said section 29 is repealed and the following substituted therefor:

(t) prescribing the rules of procedure governing proceedings of the Negotiating Committee and the Arbitration Committee.

s. 29,
amended

(3) The said section 29 is amended by adding thereto the following subsection:

Where agree-
ment in
conflict with
regulation

(3) Any provision in a collective agreement that is in conflict with a provision of a regulation as it affects the employees of a bargaining unit covered by the collective agreement prevails over the provision of the regulation.

Commence-
ment

8.—(1) This Act, except sections 1, 2, 3, 4, 6 and 7, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 2 and 3 shall be deemed to have come into force on the 1st day of April, 1972.

Idem

(3) Sections 1, 4, 6 and 7 come into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

9. This Act may be cited as *The Public Service Amendment Act, 1972*.

An Act to amend
The Public Service Act

1st Reading

May 4th, 1972

2nd Reading

June 27th, 1972

3rd Reading

June 29th, 1972

THE HON. C. MACNAUGHTON
Chairman, Management Board of Cabinet

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to amend
The Management Board of Cabinet Act, 1971**

THE HON. C. MACNAUGHTON
Chairman, Management Board of Cabinet

EXPLANATORY NOTE

This Bill deletes the authority of the Lieutenant Governor in Council to make regulations prescribing salaries of Crown employees that have been determined by negotiation. This is complementary to *The Crown Employees Collective Bargaining Act, 1972* and the amendments to *The Public Service Act*.

BILL 107

1972

**An Act to amend
The Management Board of Cabinet Act, 1971**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** Clause *e* of subsection 1 of section 6 of *The Management Board of Cabinet Act, 1971* (2nd Sess.), being chapter 12, is ^{s. 6 (1) (e),} repealed.
- 2.** This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation. <sup>Commence-
ment</sup>
- 3.** This Act may be cited as *The Management Board of Cabinet Amendment Act, 1972*. ^{Short title}

An Act to amend
The Management Board of
Cabinet Act, 1971

1st Reading

May 4th, 1972

2nd Reading

3rd Reading

THE HON. C. MACNAUGHTON
Chairman, Management Board of Cabinet

(Government Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to amend
The Management Board of Cabinet Act, 1971**

THE HON. C. MACNAUGHTON
Chairman, Management Board of Cabinet

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

This Bill deletes the authority of the Lieutenant Governor in Council to make regulations prescribing salaries and allowances for travelling expenses of Crown employees that have been determined by negotiation. This is complementary to *The Crown Employees Collective Bargaining Act, 1972* and the amendments to *The Public Service Act*.

BILL 107

1972

**An Act to amend
The Management Board of Cabinet Act, 1971**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *c* of subsection 1 of section 6 of *The Management Board of Cabinet Act, 1971* (2nd Sess.), being chapter 12, is amended by adding at the end thereof “except those allowances which have been determined by bargaining under *The Crown Employees Collective Bargaining Act, 1972*”. s. 6 (1) (c),
amended

(2) Clause *e* of subsection 1 of the said section 6 is repealed. s. 6 (1) (e),
repealed

2. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation. Commence-
ment

3. This Act may be cited as *The Management Board of Cabinet Amendment Act, 1972*. Short title

An Act to amend
The Management Board of
Cabinet Act, 1971

1st Reading

May 4th, 1972

2nd Reading

June 27th, 1972

3rd Reading

THE HON. C. MACNAUGHTON
Chairman, Management Board of Cabinet

*(Reprinted as amended by
the Committee of the Whole House)*

BILL 107

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Management Board of Cabinet Act, 1971

THE HON. C. MACNAUGHTON
Chairman, Management Board of Cabinet

BILL 107

1972

**An Act to amend
The Management Board of Cabinet Act, 1971**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *c* of subsection 1 of section 6 of *The Management Board of Cabinet Act, 1971* (2nd Sess.), being chapter 12, is amended by adding at the end thereof “except those allowances which have been determined by bargaining under *The Crown Employees Collective Bargaining Act, 1972*”. s. 6 (1) (c),
amended

(2) Clause *e* of subsection 1 of the said section 6 is repealed. s. 6 (1) (e),
repealed

2. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation. Commence-
ment

3. This Act may be cited as *The Management Board of Cabinet Amendment Act, 1972*. Short title

An Act to amend
The Management Board of
Cabinet Act, 1971

1st Reading

May 4th, 1972

2nd Reading

June 27th, 1972

3rd Reading

June 29th, 1972

THE HON. C. MACNAUGHTON
Chairman, Management Board of Cabinet

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Consumer Protection Act

THE HON. E. WINKLER
Minister of Consumer and Commercial Relations

EXPLANATORY NOTE

The Bill prohibits the practice of referral selling, that is the holding out by a salesman that there will be a reduction in price or other bargain if the buyer provides names of further prospects.

BILL 108

1972

An Act to amend The Consumer Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Consumer Protection Act*, being chapter 82 of ^{s. 46a, enacted} the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

46a.—(1) For the purposes of this section, in addition ^{Interpre-} to the meanings defined in clauses c and s of section 1, ^{tation}

(a) “buyer” includes a person who hires or leases goods for consumption where,

(i) he has an option to purchase the goods,
or

(ii) upon compliance with agreed terms, he will become the owner of the goods or will be entitled to keep them without further payment;

(b) “seller” includes a person who is in the business of letting goods, by hire or lease, to buyers.

(2) No seller shall hold out to a buyer or prospective ^{Referral} buyer any advantage, benefit or gain to the buyer or ^{selling} prospective buyer for doing anything that purports to assist the seller in finding or selling to another prospective buyer.

(3) Notwithstanding the provision for or imposition of a ^{Contracts} penalty under this Act, any contract entered into ^{not binding} following the holding out referred to in subsection 2 ^{on buyer} is not binding on the buyer.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. This Act may be cited as *The Consumer Protection Amendment Act, 1972*.

An Act to amend
The Consumer Protection Act

1st Reading

May 4th, 1972

2nd Reading

3rd Reading

THE HON. E. WINKLER
Minister of Consumer and
Commercial Relations

(Government Bill)

BILL 108

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Consumer Protection Act

THE HON. E. WINKLER
Minister of Consumer and Commercial Relations

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

BILL 108

1972

An Act to amend The Consumer Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Consumer Protection Act*, being chapter 82 of ^{s. 46a, enacted} the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

46a.—(1) For the purposes of this section, in addition ^{Interpre-} to the meanings defined in clauses *c* and *s* of section 1, ^{tation}

(a) “buyer” includes a person who hires or leases goods for consumption where,

(i) he has an option to purchase the goods, or

(ii) upon compliance with agreed terms, he will become the owner of the goods or will be entitled to keep them without further payment;

(b) “seller” includes a person who is in the business of letting goods, by hire or lease, to buyers.

(2) No seller shall hold out to a buyer or prospective ^{Referral} buyer any advantage, benefit or gain to the buyer or prospective buyer for doing anything that purports to assist the seller in finding or selling to another prospective buyer. ^{selling}

(3) Notwithstanding the provision for or imposition of a ^{Contracts} penalty under this Act, any contract entered into ^{not binding} on a buyer following the holding out referred to in subsection 2 is not binding on the buyer.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. This Act may be cited as *The Consumer Protection Amendment Act, 1972*.

An Act to amend
The Consumer Protection Act

1st Reading

May 4th, 1972

2nd Reading

May 9th, 1972

3rd Reading

May 11th, 1972

THE HON. E. WINKLER
Minister of Consumer and
Commercial Relations

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to control Pyramid Methods for the
distribution and sale of Commodities**

THE HON. E. WINKLER
Minister of Consumer and Commercial Relations

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

EXPLANATORY NOTE

The Bill provides for the control of the selling method known as pyramid sales. The principal controls include,

1. Filing of and adherence to prospectuses for pyramid sales schemes and standards for prospectuses.
2. Written contracts for investors containing certain minimum statutory provisions.
3. Provision for rescission of agreements by investors and refund of money paid on return of goods up to 70% of the total investment.

An Act to control Pyramid Methods for the distribution and sale of Commodities

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "business premises" does not include a dwelling;
- (b) "commodity" means any goods, services or rights, or other property whether tangible or intangible, capable of being the subject of sale or lease;
- (c) "Director" means the Executive Director of the Commercial Registration Division of the Ministry;
- (d) "dwelling" means any premises or any part thereof occupied as living accommodation;
- (e) "investor" means a person who gives consideration for the right to participate in a pyramid scheme;
- (f) "Minister" means the Minister of Consumer and Commercial Relations;
- (g) "Ministry" means the Ministry of Consumer and Commercial Relations;
- (h) "prescribed" means prescribed by this Act or the regulations;
- (i) "promoter" means a person who, not being an investor, receives or is entitled to receive any part of the benefits referred to in clause *j*;
- (j) "pyramid scheme" means a scheme for the distribution of a commodity whereby a person may, for valuable consideration, in any manner acquire a

commodity or a right or licence to acquire such commodity for sale, lease or otherwise,

(i) where such person receives a gratuity or consideration, directly or indirectly, as a result of the recruitment, acquisitions, actions or performances of one or more additional participants, or

(ii) where such person is, or may be paid, directly or indirectly, commissions, cross-commissions, bonuses, refunds, discounts, dividends, gratuities or other considerations as a result of a sale, lease or other distribution of such commodity by any additional participant,

and under circumstances where any part of the benefits referred to in subclause i or ii accrue to any other person participating in the scheme;

(k) "Registrar" means the Registrar of Pyramid Schemes;

(l) "regulations" means the regulations made under this Act;

(m) "Tribunal" means The Commercial Registration Appeal Tribunal established under *The Ministry of Consumer and Commercial Relations Act*.

R.S.O. 1970,
c. 113

Registrar

2.—(1) There shall be a Registrar of Pyramid Schemes who shall be appointed by the Lieutenant Governor in Council.

Duties of
Registrar

(2) The Registrar may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act under the supervision of the Director.

Prospectus
required

3. No person shall organize, operate or engage in a pyramid scheme or hold out he is organizing, operating or participating in a pyramid scheme unless a prospectus for the scheme is filed with the Registrar and a certificate of acceptance is issued therefor by the Registrar.

Representa-
tion of
govern-
mental
approval

4. No person shall make any representation, written or oral, that the Director or the Registrar has passed upon the financial standing, fitness or conduct of any person in connection with any such prospectus or upon the merits of any such prospectus.

Contents of
prospectus

5. Each prospectus submitted to the Registrar shall contain,

- (a) the name and address of each person, partnership, syndicate or corporation who is a promoter and, in the case of a partnership or syndicate, the name and address of each partner and, in the case of a corporation, the name and relationship of each affiliate or subsidiary corporation determined in the manner provided by *The Securities Act*; R.S.O. 1970,
c. 426
- (b) an address in Ontario for service of each promoter;
- (c) the particulars as to the nature of the commodity, its source of supply, the warranties to be granted to consumers, and the facilities for implementing the warranties;
- (d) the numbers and levels of investors including the number of investors in each level, the investments required to attain such levels, the control of locations and areas assigned to investors, the inventory that is to be supplied to investors for any particular investment, the terms upon which further inventory is to be made available and, where the promoter is dealing in a variety of commodities, information on the distribution of the various commodities to investors;
- (e) the provisions available and to be instituted for the training of investors and salesmen;
- (f) the manner in which the funds invested are to be disposed, including all payments of whatever kind made to participants in the scheme;
- (g) all additional charges or fees to be imposed upon an investor after investment, including further purchase obligations;
- (h) the contracts, manuals and promotional or other materials to be used; and
- (i) such other information as the Registrar may require for the proper evaluation of the scheme or as is required by the regulations.

6.—(1) The Registrar shall issue a certificate of acceptance Certificate of
acceptance
except where,

- (a) having regard to the promoter's financial position, he cannot reasonably be expected to be financially responsible in the conduct of his business;

- (b) the past conduct of the promoter or, where it is a corporation, of its officers or directors affords reasonable grounds for belief that his business will not be carried on in accordance with law and with integrity and honesty;
- (c) the promoter is or will be carrying on activities that are in contravention of this Act or the regulations;
- (d) the prospectus contains any misleading facts or omissions;
- (e) there is no immediate availability of the commodity for marketing;
- (f) there is inadequate provision for the marketing of the commodity, protection of investors and purchasers and training of investors and salesmen;
- (g) the promoter is dealing in a variety of commodities not all of which are available to the investor upon reasonable terms;
- (h) there is not available to investors a ready access to further products when needed;
- (i) the scheme does not provide for the delivery of the commodity to the investor to a retail value of at least the amount of the investment;
- (j) more than 10 per cent of the investment is devoted to finders' fees or other benefits to other participants in the scheme;
- (k) in the opinion of the Registrar, the scheme is not feasible; or
- (l) the agreement between the investor and the promoter is not a true reflection of the scheme itself.

Terms and
conditions

(2) A certificate may be issued subject to such terms and conditions as the Registrar may specify in the certificate.

Amendments
to prospectus

7. A promoter shall not depart from the pyramid scheme set out in the prospectus and may amend the prospectus by filing with the Registrar a supplementary prospectus setting out the change and receiving a supplementary certificate of acceptance issued by the Registrar.

8. Subject to section 9, the Registrar may suspend or ^{Suspension or withdrawal} withdraw the certificate for any reason that would disentitle the promoter to a certificate under section 6 if he were an applicant.

9.—(1) Where the Registrar proposes to refuse to grant ^{Refusal to issue} a certificate of acceptance or proposes to suspend or withdraw a certificate, he shall serve notice of his proposal, together with written reasons therefor, on the promoter.

(2) A notice under subsection 1 shall inform the promoter ^{Notice requiring hearing} that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal and he may so require such a hearing.

(3) Where a promoter does not require a hearing by the ^{Powers of Registrar where no hearing} Tribunal in accordance with subsection 2, the Registrar may carry out the proposal stated in his notice under subsection 1.

(4) Where a promoter requires a hearing by the ^{Powers of Tribunal where hearing} Tribunal in accordance with subsection 2, the Tribunal shall appoint a time and place for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

(5) The Tribunal may attach such terms and conditions to ^{Conditions of order} its order or to the certificate of acceptance as it considers proper to give effect to the purposes of this Act and the regulations.

(6) The Registrar, the promoter and such other persons ^{Parties} as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

(7) Notwithstanding subsection 1, the Registrar may cancel ^{Voluntary cancellation} a certificate of acceptance upon the request in writing of the promoter in the prescribed form surrendering his certificate.

(8) Notwithstanding that a promoter appeals from an order ^{Order effective, stay} of the Tribunal under section 9b of *The Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal. R.S.O. 1970, c. 113

Application
of ss. 11, 12

10. Sections 11 and 12 apply notwithstanding any agreement or waiver to the contrary.

Investor's
agreement

11.—(1) Every agreement by which a person becomes an investor in a pyramid scheme,

- (a) shall be in writing;
- (b) shall contain in conspicuous print on its face the text of section 12;
- (c) shall include the sale or lease of a commodity appropriate for resale or subletting;
- (d) shall state the retail price of the commodity upon which the scheme is based;
- (e) shall contain an address in Ontario for service of the person with whom the investor enters into the agreement; and
- (f) shall be in such form and provide for such other matters as are prescribed by the regulations.

Agreement
voidable
where non-
compliance

(2) Any agreement that does not comply with subsection 1 is voidable at any time at the option of the investor.

Copy of
prospectus

(3) No promoter or investor shall enter into an agreement with a person by which such person would become an investor unless the promoter or investor has delivered a copy of the prospectus accepted under section 3 to the prospective investor at least two days before the agreement is entered into.

When
agreement
voidable

(4) An agreement entered into before the time required by subsection 3 is voidable at the option of the prospective investor at any time before the time when the agreement could be entered into in accordance with subsection 3.

Refund

(5) Where an agreement is voided under this section, the promoter shall pay to the investor his total investment.

Rescission
of investor's
agreement

12.—(1) Any person who enters into an agreement to become an investor may rescind the agreement by delivering a notice of rescission in writing to the person with whom he entered into the agreement and, where such person is not the promoter, to the promoter, within six months of the date of the agreement.

Notice of
Rescission

(2) A notice of rescission may be delivered personally or sent by registered mail addressed to the person to

whom delivery is to be made at the address shown in the agreement or in the prospectus and, notwithstanding section 22, delivery by registered mail shall be deemed to have been made at the time of mailing.

(3) Where a person who has entered into an agreement to become an investor rescinds the agreement under subsection 1, he may return all or any portion of the commodity received under the scheme and in merchantable condition to the promoter who shall pay the investor 75 per cent of his total investment less the proportion of that amount that any unreturned quantity of the commodity bears to the total quantity received by the investor. ^{Return of commodity and refund}

(4) A promoter shall enter into such escrow agreement as the Registrar considers necessary or advisable to ensure that an amount equal to 75 per cent of the retail value of a commodity delivered to an investor under an agreement referred to in section 11 is available for repayment until the period during which a rescission may be made under subsection 1 expires. ^{Escrow pending rescission}

13.—(1) Every promoter shall maintain at such places in Ontario that have been approved in writing by the Registrar registers setting out the names and addresses of all investors in the pyramid scheme, and describing the territories that have been allotted to each. ^{Public inspection of information}

(2) A register shall be kept available for inspection by any person during reasonable business hours. ^{Idem}

(3) No person shall refuse to permit a person to inspect a register under subsection 2, or to make extracts therefrom. ^{Idem}

14. Every promoter shall file with the Registrar annually on the anniversary date of his certificate of acceptance, ^{Annual return}

(a) an audited financial statement ;

(b) an affidavit stating that no changes exist in the pyramid scheme ; and

(c) a copy of the register of investors.

15. Where the Registrar believes on reasonable and probable grounds that a promoter is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material and section 9 applies *mutatis mutandis* to the order in the same manner as ^{False advertising}

to a proposal by the Registrar to refuse a certificate of acceptance and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final.

Inspection

16.—(1) The Registrar or any person designated by him in writing may at any reasonable time enter upon the business premises of the promoter to make an inspection to ensure that the provisions of this Act and the regulations are being complied with.

Idem

(2) Where the Registrar has reasonable and probable grounds to believe that any person is acting as a promoter without a prospectus and certificate of acceptance, the Registrar or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 3.

Powers on inspection

(3) Upon an inspection under this section, the person inspecting,

(a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and

(b) may, upon giving a receipt therefor, remove any material referred to in clause *a* that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

Admissibility of copies

(4) Any copy made as provided in subsection 3 and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original.

Investigations by order of Minister

17. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person

appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act. ^{1971, c. 49}

18.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person has, ^{Investigation by Director}

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that is relevant to his fitness to receive a certificate of acceptance under this Act, ^{R.S.C. 1970, c. C-34}

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulations or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Director.

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may, ^{Powers of investigator}

- (a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation;
- (b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act. ^{1971, c. 49}

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation. ^{Obstruction of investigator}

Search
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are, in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause *a* of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause *a* of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

Admissi-
bility of
copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Appointment
of experts

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4.

Matters
confidential

19.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 16, 17 or 18, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations. Testimony in civil suit

20. Where, upon the report of an investigation made under subsection 1 of section 18, it appears to the Director that a person may have, Report

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence, under the *Criminal Code* (Canada) or under the law of any jurisdiction, that is relevant to his fitness to receive a certificate of acceptance under this Act. R.S.C. 1970, c. 34

the Director shall send a full and complete report of the investigation, including the report made to him, any transcript of evidence and any material in the possession of the Director relating thereto, to the Minister.

21.—(1) Where,

- (a) an investigation of any person has been ordered under section 18; or
- (b) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are connected with or arise out of the business in respect of which a prospectus is required under this Act,

Order to
refrain from
dealing with
assets

the Director, if he believes it advisable for the protection of investors or customers of the person referred to in clause *a* or *b* may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds or direct the person referred to in clause *a* or *b* to hold such assets or trust funds or direct the person referred to in clause *a* or *b* to refrain from withdrawing any such assets

R.S.C. 1970,
cc. B-4, W-11

R.S.O. 1970,
cc. 228, 89, 53

or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of investors, customers or others in his possession or control in trust for any interim receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act*, or the *Winding-up Act* (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

Bond in
lieu

(2) Subsection 1 does not apply where the person referred to in clause *a* or *b* of subsection 1 files with the Director,

(a) a personal bond accompanied by collateral security;

R.S.O. 1970,
c. 196

(b) a bond of a guarantee company approved under *The Guarantee Companies Securities Act*; or

(c) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

in such form, terms and amount as the Director may determine.

Application
for direction

(3) Any person in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just.

Notice to
registrars of
deeds, etc.

(4) In any of the circumstances mentioned in clause *a* or *b* of subsection 1, the Director may in writing or by telegram notify any registrar of deeds or master of titles that proceedings are being or are about to be taken that may affect land belonging to the person referred to in the notice, and the notice shall be registered against the lands mentioned therein and has the same effect as the registration of a certificate of *lis pendens* except that the Director may in writing revoke or modify the notice.

Cancellation
of direction
or registra-
tion

(5) Any person referred to in clause *a* or *b* of subsection 1 in respect of whom a direction has been given by the Director under subsection 1 or any person having an interest in land in respect of which a notice has been registered under subsection 4 may, at any time, apply to the Tribunal for cancellation in whole or in part of the direction or

registration and the Tribunal shall dispose of the application after a hearing and may, if it finds that such a direction or registration is not required in whole or in part for the protection of investors or customers of the applicant or of other persons interested in the land or that the interests of other persons are unduly prejudiced thereby, cancel the direction or registration in whole or in part, and the applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal.

22.—(1) Any notice or order required to be given or ^{Service} served under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service set out in the prospectus or supplementary prospectus.

(2) Where service is made by registered mail, the service ^{When service} shall be deemed to be made on the third day after the day ^{deemed to} of mailing unless the person on whom service is being made ^{be made} establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

(3) Notwithstanding subsections 1 and 2, the Tribunal ^{Idem} may order any other method of service in respect of any matter before the Tribunal.

23.—(1) Where it appears to the Director that any person ^{Restraining} does not comply with any provision of this Act, the regula- ^{orders} tions or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application, the judge may make such order or such other order as the judge thinks fit.

(2) An appeal lies to the Court of Appeal from an order ^{Appeal} made under subsection 1.

24.—(1) Every person who,

^{Offences}

- (a) makes a statement in any application, report, prospectus, return, financial statement or other document, required to be filed or furnished under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading;

(b) fails to comply with any order, direction or other requirement under this Act; or

(c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such act, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both.

Corporations (2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$100,000 and not as provided therein.

Consent of Minister (3) No proceedings under this section shall be instituted except with the consent of the Minister.

Limitation (4) No proceeding under clause *a* of subsection 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director.

Idem (5) No proceeding under clause *b* or *c* of subsection 1 shall be commenced more than two years after the time when the subject-matter of the proceeding arose.

Certificate as evidence **25.—(1)** A statement as to,

(a) the issuance or non-issuance of a certificate of acceptance;

(b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;

(c) the time when the facts upon which proceedings are based first come to the knowledge of the Director; or

(d) any other matter pertaining to such certificate, filing or non-filing,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Proof of Minister's signature (2) Any document under this Act purporting to be signed by the Minister, or any certified copy thereof, is receivable in evidence in any action, prosecution or other proceeding as

prima facie proof that the document is signed by the Minister without proof of the office or signature of the Minister.

26. The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) exempting any class of person from this Act or the regulations or any provision thereof;
- (b) governing the filing of a prospectus or supplementary prospectus and prescribing terms and conditions in relation thereto;
- (c) requiring the payment of fees and prescribing the amounts thereof;
- (d) prescribing the form and content of agreements by which persons become investors in pyramid schemes or any terms thereof;
- (e) governing the property or funds held in escrow under section 12;
- (f) governing the form and content of prospectuses for pyramid schemes;
- (g) requiring promoters or investors to be bonded in such form and terms and with such collateral security as are prescribed and providing for the forfeiture of bonds and the disposition of the proceeds;
- (h) requiring and governing the books, accounts and records that shall be kept by promoters;
- (i) requiring promoters or investors to make returns and furnish information to the Registrar;
- (j) prescribing forms for the purposes of this Act and providing for their use; and
- (k) requiring any information required to be furnished or contained in any form or return to be verified by affidavit.

27. This Act comes into force on a day to be named by ^{Commence-}the Lieutenant Governor by his proclamation. ^{ment}

28. This Act may be cited as *The Pyramidical Sales Act, 1972*. ^{Short title}

An Act to control Pyramid Methods for
the distribution and sale of Commodities

1st Reading

May 4th, 1972

2nd Reading

3rd Reading

THE HON. E. WINKLER
Minister of Consumer and
Commercial Relations

(Government Bill)

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21 ELIZABETH II, 1972

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(Reprinted as amended by the Committee of the Whole House)

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- (b) "commodity" means any goods, services or rights, or other property whether tangible or intangible, capable of being the subject of sale or lease;
- (c) "Director" means the Executive Director of the Commercial Registration Division of the Ministry;
- (d) "dwelling" means any premises or any part thereof occupied as living accommodation;
- (e) "investor" means a person who gives consideration for the right to participate in a pyramid scheme;
- (f) "Minister" means the Minister of Consumer and Commercial Relations;
- (g) "Ministry" means the Ministry of Consumer and Commercial Relations;
- (h) "prescribed" means prescribed by this Act or the regulations;
- (i) "promoter" means a person who, not being an investor, receives or is entitled to receive any part of the benefits referred to in clause *j*;
- (j) "pyramid scheme" means a scheme for the distribution of a commodity whereby a person may, for valuable consideration, in any manner acquire a

commodity or a right or licence to acquire such commodity for sale, lease or otherwise,

(i) where such person receives a gratuity or consideration, directly or indirectly, as a result of the recruitment, acquisitions, actions or performances of one or more additional participants, or

(ii) where such person is, or may be paid, directly or indirectly, commissions, cross-commissions, bonuses, refunds, discounts, dividends, gratuities or other considerations as a result of a sale, lease or other distribution of such commodity by any additional participant,

and under circumstances where any part of the benefits referred to in subclause i or ii accrue to any other person participating in the scheme;

(k) "Registrar" means the Registrar of Pyramid Schemes;

(l) "regulations" means the regulations made under this Act;

(m) "Tribunal" means The Commercial Registration Appeal Tribunal established under *The Ministry of Consumer and Commercial Relations Act*.

R.S.O. 1970,
c. 113

Registrar

2.—(1) There shall be a Registrar of Pyramid Schemes who shall be appointed by the Lieutenant Governor in Council.

Duties of
Registrar

(2) The Registrar may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act under the supervision of the Director.

Prospectus
required

3. No person shall organize, operate or engage in a pyramid scheme or hold out he is organizing, operating or participating in a pyramid scheme unless a prospectus for the scheme is filed with the Registrar and a certificate of acceptance is issued therefor by the Registrar.

Representa-
tion of
govern-
mental
approval

4. No person shall make any representation, written or oral, that the Director or the Registrar has passed upon the financial standing, fitness or conduct of any person in connection with any such prospectus or upon the merits of any such prospectus.

Contents of
prospectus

5. Each prospectus submitted to the Registrar shall contain,

- (a) the name and address of each person, partnership, syndicate or corporation who is a promoter and, in the case of a partnership or syndicate, the name and address of each partner and, in the case of a corporation, the name and relationship of each affiliate or subsidiary corporation determined in the manner provided by *The Securities Act*;

R.S.O. 1970,
c. 426

- (b) an address in Ontario for service of each promoter;
- (c) the particulars as to the nature of the commodity, its source of supply, the warranties to be granted to consumers, and the facilities for implementing the warranties;
- (d) the numbers and levels of investors including the number of investors in each level, the investments required to attain such levels, the control of locations and areas assigned to investors, the inventory that is to be supplied to investors for any particular investment, the terms upon which further inventory is to be made available and, where the promoter is dealing in a variety of commodities, information on the distribution of the various commodities to investors;
- (e) the provisions available and to be instituted for the training of investors and salesmen;
- (f) the manner in which the funds invested are to be disposed, including all payments of whatever kind made to participants in the scheme;
- (g) all additional charges or fees to be imposed upon an investor after investment, including further purchase obligations;
- (h) the contracts, manuals and promotional or other materials to be used; and
- (i) such other information as the Registrar may require for the proper evaluation of the scheme or as is required by the regulations.

6.—(1) The Registrar shall issue a certificate of acceptance Certificate of acceptance except where,

- (a) having regard to the promoter's financial position, he cannot reasonably be expected to be financially responsible in the conduct of his business;

- (b) the past conduct of the promoter or, where it is a corporation, of its officers or directors affords reasonable grounds for belief that his business will not be carried on in accordance with law and with integrity and honesty;
- (c) the promoter is or will be carrying on activities that are in contravention of this Act or the regulations;
- (d) the prospectus contains any misleading facts or omissions;
- (e) there is no immediate availability of the commodity for marketing;
- (f) there is inadequate provision for the marketing of the commodity, protection of investors and purchasers and training of investors and salesmen;
- (g) the promoter is dealing in a variety of commodities not all of which are available to the investor upon reasonable terms;
- (h) there is not available to investors a ready access to further products when needed;
- (i) the scheme does not provide for the delivery of the commodity to the investor to a retail value of at least the amount of the investment;
- (j) more than 10 per cent of the investment is devoted to finders' fees or other benefits to other participants in the scheme;
- (k) in the opinion of the Registrar, the scheme is unfair or not feasible; or
- (l) the agreement between the investor and the promoter is not a true reflection of the scheme itself.

Terms and
conditions

(2) A certificate may be issued subject to such terms and conditions as the Registrar may specify in the certificate.

Amendments
to prospectus

7. A promoter shall not depart from the pyramid scheme set out in the prospectus and may amend the prospectus by filing with the Registrar a supplementary prospectus setting out the change and receiving a supplementary certificate of acceptance issued by the Registrar.

8. Subject to section 9, the Registrar may suspend or withdraw the certificate for any reason that would disentitle the promoter to a certificate under section 6 if he were an applicant. Suspension or withdrawal

9.—(1) Where the Registrar proposes to refuse to grant a certificate of acceptance or proposes to suspend or withdraw a certificate, he shall serve notice of his proposal, together with written reasons therefor, on the promoter. Refusal to issue certificate

(2) A notice under subsection 1 shall inform the promoter that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal and he may so require such a hearing. Notice requiring hearing

(3) Where a promoter does not require a hearing by the Tribunal in accordance with subsection 2, the Registrar may carry out the proposal stated in his notice under subsection 1. Powers of Registrar where no hearing

(4) Where a promoter requires a hearing by the Tribunal in accordance with subsection 2, the Tribunal shall appoint a time and place for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar. Powers of Tribunal where hearing

(5) The Tribunal may attach such terms and conditions to its order or to the certificate of acceptance as it considers proper to give effect to the purposes of this Act and the regulations. Conditions of order

(6) The Registrar, the promoter and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section. Parties

(7) Notwithstanding subsection 1, the Registrar may cancel a certificate of acceptance upon the request in writing of the promoter in the prescribed form surrendering his certificate. Voluntary cancellation

(8) Notwithstanding that a promoter appeals from an order of the Tribunal under section 9b of *The Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal. Order effective, stay R.S.O. 1970, c. 113

Application
of ss. 11, 12

10. Sections 11 and 12 apply notwithstanding any agreement or waiver to the contrary.

Investor's
agreement

11.—(1) Every agreement by which a person becomes an investor in a pyramid scheme,

(a) shall be in writing;

(b) shall contain in conspicuous print on its face the text of section 12;

(c) shall include the sale or lease of a commodity appropriate for resale or subletting;

(d) shall state the retail price of the commodity upon which the scheme is based;

(e) shall contain an address in Ontario for service of the person with whom the investor enters into the agreement; and

(f) shall be in such form and provide for such other matters as are prescribed by the regulations.

Agreement
voidable
where non-
compliance

(2) Any agreement that does not comply with subsection 1 is voidable at any time at the option of the investor.

Copy of
prospectus

(3) No promoter or investor shall enter into an agreement with a person by which such person would become an investor unless the promoter or investor has delivered a copy of the prospectus accepted under section 3 to the prospective investor at least two days before the agreement is entered into.

When
agreement
voidable

(4) An agreement entered into before the time required by subsection 3 is voidable at the option of the prospective investor at any time before the time when the agreement could be entered into in accordance with subsection 3.

Refund

(5) Where an agreement is voided under this section, the promoter shall pay to the investor his total investment.

Rescission
of investor's
agreement

12.—(1) Any person who enters into an agreement to become an investor may rescind the agreement by delivering a notice of rescission in writing to the person with whom he entered into the agreement and, where such person is not the promoter, to the promoter, within six months of the date of the agreement.

Notice of
Rescission

(2) A notice of rescission may be delivered personally or sent by registered mail addressed to the person to

whom delivery is to be made at the address shown in the agreement or in the prospectus and, notwithstanding section 22, delivery by registered mail shall be deemed to have been made at the time of mailing.

(3) Where a person who has entered into an agreement to become an investor rescinds the agreement under subsection 1, he may return all or any portion of the commodity received under the scheme and in merchantable condition to the promoter who shall pay the investor 75 per cent of his total investment less the proportion of that amount that any unreturned quantity of the commodity bears to the total quantity received by the investor. ^{Return of commodity and refund}

(4) A promoter shall enter into such escrow agreement as the Registrar considers necessary or advisable to ensure that an amount equal to 75 per cent of the retail value of a commodity delivered to an investor under an agreement referred to in section 11 is available for repayment until the period during which a rescission may be made under subsection 1 expires. ^{Escrow pending rescission}

13.—(1) Every promoter shall maintain at such places in Ontario that have been approved in writing by the Registrar registers setting out the names and addresses of all investors in the pyramid scheme, and describing the territories that have been allotted to each. ^{Public inspection of information}

(2) A register shall be kept available for inspection by any person during reasonable business hours. ^{Idem}

(3) No person shall refuse to permit a person to inspect a register under subsection 2, or to make extracts therefrom. ^{Idem}

14. Every promoter shall file with the Registrar annually on the anniversary date of his certificate of acceptance, ^{Annual return}

(a) an audited financial statement ;

(b) an affidavit stating that no changes exist in the pyramid scheme ; and

(c) a copy of the register of investors.

15. Where the Registrar believes on reasonable and probable grounds that a promoter is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material and section 9 applies *mutatis mutandis* to the order in the same manner as ^{False advertising}

to a proposal by the Registrar to refuse a certificate of acceptance and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final.

Inspection

16.—(1) The Registrar or any person designated by him in writing may at any reasonable time enter upon the business premises of the promoter to make an inspection to ensure that the provisions of this Act and the regulations are being complied with.

Idem

(2) Where the Registrar has reasonable and probable grounds to believe that any person is acting as a promoter without a prospectus and certificate of acceptance, the Registrar or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 3.

Powers on inspection

(3) Upon an inspection under this section, the person inspecting,

- (a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and
- (b) may, upon giving a receipt therefor, remove any material referred to in clause *a* that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

Admissibility of copies

(4) Any copy made as provided in subsection 3 and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original.

Investigations by order of Minister

17. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person

appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act. ^{1971, c. 49}

18.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person has, ^{Investigation by Director}

(a) contravened any of the provisions of this Act or the regulations; or

(b) committed an offence under the *Criminal Code* ^{R.S.C. 1970, c. C-34} (Canada) or under the law of any jurisdiction that is relevant to his fitness to receive a certificate of acceptance under this Act,

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulations or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Director.

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may, ^{Powers of investigator}

(a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation;

(b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act. ^{1971, c. 49}

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation. ^{Obstruction of investigator}

Search
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are, in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause *a* of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause *a* of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

Admissi-
bility of
copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Appointment
of experts

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4.

Matters
confidential

19.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 16, 17 or 18, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations. Testimony in civil suit

20. Where, upon the report of an investigation made under subsection 1 of section 18, it appears to the Director that a person may have, Report

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence, under the *Criminal Code* (Canada) or under the law of any jurisdiction, that is relevant to his fitness to receive a certificate of acceptance under this Act. R.S.C. 1970, c. C-34

the Director shall send a full and complete report of the investigation, including the report made to him, any transcript of evidence and any material in the possession of the Director relating thereto, to the Minister.

21.—(1) Where,

- (a) an investigation of any person has been ordered under section 18; or
- (b) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are connected with or arise out of the business in respect of which a prospectus is required under this Act,

Order to refrain from dealing with assets

the Director, if he believes it advisable for the protection of investors or customers of the person referred to in clause *a* or *b* may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds or direct the person referred to in clause *a* or *b* to hold such assets or trust funds or direct the person referred to in clause *a* or *b* to refrain from withdrawing any such assets

or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of investors, customers or others in his possession or control in trust for any interim receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act*, or the *Winding-up Act* (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

R.S.C. 1970,
cc. B-4, W-11

R.S.O. 1970,
cc. 228, 89, 53

Bond in
lieu

(2) Subsection 1 does not apply where the person referred to in clause *a* or *b* of subsection 1 files with the Director,

(a) a personal bond accompanied by collateral security;

R.S.O. 1970,
c. 196

(b) a bond of a guarantee company approved under *The Guarantee Companies Securities Act*; or

(c) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

in such form, terms and amount as the Director may determine,

Application
for direction

(3) Any person in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just.

Notice to
registrars of
deeds, etc.

(4) In any of the circumstances mentioned in clause *a* or *b* of subsection 1, the Director may in writing or by telegram notify any registrar of deeds or master of titles that proceedings are being or are about to be taken that may affect land belonging to the person referred to in the notice, and the notice shall be registered against the lands mentioned therein and has the same effect as the registration of a certificate of *lis pendens* except that the Director may in writing revoke or modify the notice.

Cancellation
of direction
or registra-
tion

(5) Any person referred to in clause *a* or *b* of subsection 1 in respect of whom a direction has been given by the Director under subsection 1 or any person having an interest in land in respect of which a notice has been registered under subsection 4 may, at any time, apply to the Tribunal for cancellation in whole or in part of the direction or

registration and the Tribunal shall dispose of the application after a hearing and may, if it finds that such a direction or registration is not required in whole or in part for the protection of investors or customers of the applicant or of other persons interested in the land or that the interests of other persons are unduly prejudiced thereby, cancel the direction or registration in whole or in part, and the applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal.

22.—(1) Any notice or order required to be given or ^{Service} served under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service set out in the prospectus or supplementary prospectus.

(2) Where service is made by registered mail, the service ^{When service deemed to be made} shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

(3) Notwithstanding subsections 1 and 2, the Tribunal ^{Idem} may order any other method of service in respect of any matter before the Tribunal.

23.—(1) Where it appears to the Director that any person ^{Restraining orders} does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application, the judge may make such order or such other order as the judge thinks fit.

(2) An appeal lies to the Court of Appeal from an order ^{Appeal} made under subsection 1.

24.—(1) Every person who,

^{Offences}

- (a) makes a statement in any application, report, prospectus, return, financial statement or other document, required to be filed or furnished under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading;

(b) fails to comply with any order, direction or other requirement under this Act; or

(c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such act, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both.

Corporations (2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$100,000 and not as provided therein.

Limitation (3) No proceeding under clause *a* of subsection 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director.

Idem (4) No proceeding under clause *b* or *c* of subsection 1 shall be commenced more than two years after the time when the subject-matter of the proceeding arose.

Certificate as evidence **25.—(1)** A statement as to,

(a) the issuance or non-issuance of a certificate of acceptance;

(b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;

(c) the time when the facts upon which proceedings are based first come to the knowledge of the Director; or

(d) any other matter pertaining to such certificate, filing or non-filing,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Proof of Minister's signature

(2) Any document under this Act purporting to be signed by the Minister, or any certified copy thereof, is receivable in evidence in any action, prosecution or other proceeding as *prima facie* proof that the document is signed by the Minister without proof of the office or signature of the Minister.

26. The Lieutenant Governor in Council may make Regulations regulations,

- (a) exempting any class of person from this Act or the regulations or any provision thereof;
- (b) governing the filing of a prospectus or supplementary prospectus and prescribing terms and conditions in relation thereto;
- (c) requiring the payment of fees and prescribing the amounts thereof;
- (d) prescribing the form and content of agreements by which persons become investors in pyramid schemes or any terms thereof;
- (e) governing the property or funds held in escrow under section 12;
- (f) governing the form and content of prospectuses for pyramid schemes;
- (g) requiring promoters or investors to be bonded in such form and terms and with such collateral security as are prescribed and providing for the forfeiture of bonds and the disposition of the proceeds;
- (h) requiring and governing the books, accounts and records that shall be kept by promoters;
- (i) requiring promoters or investors to make returns and furnish information to the Registrar;
- (j) prescribing forms for the purposes of this Act and providing for their use; and
- (k) requiring any information required to be furnished or contained in any form or return to be verified by affidavit.



27.—(1) Nothing in this Act shall be construed to make unlawful the sale to consumers of commodities received by the seller under a pyramid scheme the operation of which becomes unlawful under or by virtue of this Act, where the commodities were received by the seller before the pyramid scheme became unlawful, but the Registrar may, upon notice to the seller, prohibit such sale where the commodity is defective in quality or the warranty is defective or incapable of performance.

Sale to
consumer
under
unlawful
scheme

Extension
of time
for filing
prospectus

(2) Upon application therefor, the Registrar may, in writing, extend the time for the filing of a prospectus and the issuance of a certificate of acceptance for the purpose of section 3 for a period or periods not exceeding a total of ninety days after this Act comes into force where in his opinion there is a reasonable likelihood that the prospectus, when filed, will comply with the requirements of this Act.

Commence-
ment

28. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

29. This Act may be cited as *The Pyramidical Sales Act, 1972*.

An Act to control Pyramid Methods for
the distribution and sale of Commodities

1st Reading

May 4th, 1972

2nd Reading

May 9th, 1972

3rd Reading

THE HON. E. WINKLER
Minister of Consumer and
Commercial Relations

(Reprinted as amended by the
Committee of the Whole House)

BILL 109

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to control Pyramid Methods for the distribution and sale of Commodities

THE HON. E. WINKLER
Minister of Consumer and Commercial Relations

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

An Act to control Pyramid Methods for the distribution and sale of Commodities

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "business premises" does not include a dwelling;
- (b) "commodity" means any goods, services or rights, or other property whether tangible or intangible, capable of being the subject of sale or lease;
- (c) "Director" means the Executive Director of the Commercial Registration Division of the Ministry;
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(i) where such person receives a gratuity or consideration, directly or indirectly, as a result of the recruitment, acquisitions, actions or performances of one or more additional participants, or

(ii) where such person is, or may be paid, directly or indirectly, commissions, cross-commissions, bonuses, refunds, discounts, dividends, gratuities or other considerations as a result of a sale, lease or other distribution of such commodity by any additional participant,

and under circumstances where any part of the benefits referred to in subclause i or ii accrue to any other person participating in the scheme;

(k) "Registrar" means the Registrar of Pyramid Schemes;

(l) "regulations" means the regulations made under this Act;

(m) "Tribunal" means The Commercial Registration Appeal Tribunal established under *The Ministry of Consumer and Commercial Relations Act*.

R.S.O. 1970,
c. 113

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prospectus

5. Each prospectus submitted to the Registrar shall contain,

- (a) the name and address of each person, partnership, syndicate or corporation who is a promoter and, in the case of a partnership or syndicate, the name and address of each partner and, in the case of a corporation, the name and relationship of each affiliate or subsidiary corporation determined in the manner provided by *The Securities Act*;

R.S.O. 1970,
c. 426

- (b) an address in Ontario for service of each promoter;
- (c) the particulars as to the nature of the commodity, its source of supply, the warranties to be granted to consumers, and the facilities for implementing the warranties;
- (d) the numbers and levels of investors including the number of investors in each level, the investments required to attain such levels, the control of locations and areas assigned to investors, the inventory that is to be supplied to investors for any particular investment, the terms upon which further inventory is to be made available and, where the promoter is dealing in a variety of commodities, information on the distribution of the various commodities to investors;
- (e) the provisions available and to be instituted for the training of investors and salesmen;
- (f) the manner in which the funds invested are to be disposed, including all payments of whatever kind made to participants in the scheme;
- (g) all additional charges or fees to be imposed upon an investor after investment, including further purchase obligations;
- (h) the contracts, manuals and promotional or other materials to be used; and
- (i) such other information as the Registrar may require for the proper evaluation of the scheme or as is required by the regulations.

6.—(1) The Registrar shall issue a certificate of acceptance Certificate of acceptance except where,

- (a) having regard to the promoter's financial position, he cannot reasonably be expected to be financially responsible in the conduct of his business;

- (b) the past conduct of the promoter or, where it is a corporation, of its officers or directors affords reasonable grounds for belief that his business will not be carried on in accordance with law and with integrity and honesty;
- (c) the promoter is or will be carrying on activities that are in contravention of this Act or the regulations;
- (d) the prospectus contains any misleading facts or omissions;
- (e) there is no immediate availability of the commodity for marketing;
- (f) there is inadequate provision for the marketing of the commodity, protection of investors and purchasers and training of investors and salesmen;
- (g) the promoter is dealing in a variety of commodities not all of which are available to the investor upon reasonable terms;
- (h) there is not available to investors a ready access to further products when needed;
- (i) the scheme does not provide for the delivery of the commodity to the investor to a retail value of at least the amount of the investment;
- (j) more than 10 per cent of the investment is devoted to finders' fees or other benefits to other participants in the scheme;
- (k) in the opinion of the Registrar, the scheme is unfair or not feasible; or
- (l) the agreement between the investor and the promoter is not a true reflection of the scheme itself.

Terms and conditions

(2) A certificate may be issued subject to such terms and conditions as the Registrar may specify in the certificate.

Amendments to prospectus

7. A promoter shall not depart from the pyramid scheme set out in the prospectus and may amend the prospectus by filing with the Registrar a supplementary prospectus setting out the change and receiving a supplementary certificate of acceptance issued by the Registrar.

8. Subject to section 9, the Registrar may suspend or withdraw the certificate for any reason that would disentitle the promoter to a certificate under section 6 if he were an applicant. ^{Suspension or withdrawal}

9.—(1) Where the Registrar proposes to refuse to grant a certificate of acceptance or proposes to suspend or withdraw a certificate, he shall serve notice of his proposal, together with written reasons therefor, on the promoter. ^{Refusal to issue certificate}

(2) A notice under subsection 1 shall inform the promoter that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal and he may so require such a hearing. ^{Notice requiring hearing}

(3) Where a promoter does not require a hearing by the Tribunal in accordance with subsection 2, the Registrar may carry out the proposal stated in his notice under subsection 1. ^{Powers of Registrar where no hearing}

(4) Where a promoter requires a hearing by the Tribunal in accordance with subsection 2, the Tribunal shall appoint a time and place for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar. ^{Powers of Tribunal where hearing}

(5) The Tribunal may attach such terms and conditions to its order or to the certificate of acceptance as it considers proper to give effect to the purposes of this Act and the regulations. ^{Conditions of order}

(6) The Registrar, the promoter and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section. ^{Parties}

(7) Notwithstanding subsection 1, the Registrar may cancel a certificate of acceptance upon the request in writing of the promoter in the prescribed form surrendering his certificate. ^{Voluntary cancellation}

(8) Notwithstanding that a promoter appeals from an order of the Tribunal under section 9b of *The Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal. ^{Order effective, stay}
 ^{R.S.O. 1970, c. 113}

Application
of ss. 11, 12

10. Sections 11 and 12 apply notwithstanding any agreement or waiver to the contrary.

Investor's
agreement

11.—(1) Every agreement by which a person becomes an investor in a pyramid scheme,

(a) shall be in writing;

(b) shall contain in conspicuous print on its face the text of section 12;

(c) shall include the sale or lease of a commodity appropriate for resale or subletting;

(d) shall state the retail price of the commodity upon which the scheme is based;

(e) shall contain an address in Ontario for service of the person with whom the investor enters into the agreement; and

(f) shall be in such form and provide for such other matters as are prescribed by the regulations.

Agreement
voidable
where non-
compliance

(2) Any agreement that does not comply with subsection 1 is voidable at any time at the option of the investor.

Copy of
prospectus

(3) No promoter or investor shall enter into an agreement with a person by which such person would become an investor unless the promoter or investor has delivered a copy of the prospectus accepted under section 3 to the prospective investor at least two days before the agreement is entered into.

When
agreement
voidable

(4) An agreement entered into before the time required by subsection 3 is voidable at the option of the prospective investor at any time before the time when the agreement could be entered into in accordance with subsection 3.

Refund

(5) Where an agreement is voided under this section, the promoter shall pay to the investor his total investment.

Rescission
of investor's
agreement

12.—(1) Any person who enters into an agreement to become an investor may rescind the agreement by delivering a notice of rescission in writing to the person with whom he entered into the agreement and, where such person is not the promoter, to the promoter, within six months of the date of the agreement.

Notice of
Rescission

(2) A notice of rescission may be delivered personally or sent by registered mail addressed to the person to

whom delivery is to be made at the address shown in the agreement or in the prospectus and, notwithstanding section 22, delivery by registered mail shall be deemed to have been made at the time of mailing.

(3) Where a person who has entered into an agreement to become an investor rescinds the agreement under subsection 1, he may return all or any portion of the commodity received under the scheme and in merchantable condition to the promoter who shall pay the investor 75 per cent of his total investment less the proportion of that amount that any unreturned quantity of the commodity bears to the total quantity received by the investor. ^{Return of commodity and refund}

(4) A promoter shall enter into such escrow agreement as the Registrar considers necessary or advisable to ensure that an amount equal to 75 per cent of the retail value of a commodity delivered to an investor under an agreement referred to in section 11 is available for repayment until the period during which a rescission may be made under subsection 1 expires. ^{Escrow pending rescission}

13.—(1) Every promoter shall maintain at such places in Ontario that have been approved in writing by the Registrar registers setting out the names and addresses of all investors in the pyramid scheme, and describing the territories that have been allotted to each. ^{Public inspection of information}

(2) A register shall be kept available for inspection by any person during reasonable business hours. ^{Idem}

(3) No person shall refuse to permit a person to inspect a register under subsection 2, or to make extracts therefrom. ^{Idem}

14. Every promoter shall file with the Registrar annually on the anniversary date of his certificate of acceptance, ^{Annual return}

(a) an audited financial statement ;

(b) an affidavit stating that no changes exist in the pyramid scheme ; and

(c) a copy of the register of investors.

15. Where the Registrar believes on reasonable and probable grounds that a promoter is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material and section 9 applies *mutatis mutandis* to the order in the same manner as ^{False advertising}

to a proposal by the Registrar to refuse a certificate of acceptance and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final.

Inspection

16.—(1) The Registrar or any person designated by him in writing may at any reasonable time enter upon the business premises of the promoter to make an inspection to ensure that the provisions of this Act and the regulations are being complied with.

Idem

(2) Where the Registrar has reasonable and probable grounds to believe that any person is acting as a promoter without a prospectus and certificate of acceptance, the Registrar or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 3.

Powers on inspection

(3) Upon an inspection under this section, the person inspecting,

(a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and

(b) may, upon giving a receipt therefor, remove any material referred to in clause *a* that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

Admissibility of copies

(4) Any copy made as provided in subsection 3 and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original.

Investigations by order of Minister

17. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person

appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act.^{1971, c. 49}

18.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person has, ^{Investigation by Director}

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that is relevant to his fitness to receive a certificate of acceptance under this Act, ^{R.S.C. 1970, c. C-34}

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulations or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Director.

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may, ^{Powers of investigator}

- (a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation;
- (b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.^{1971, c. 49}

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation. ^{Obstruction of investigator}

Search
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are, in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause *a* of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause *a* of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

Admissi-
bility of
copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Appointment
of experts

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4.

Matters
confidential

19.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 16, 17 or 18, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations. Testimony in civil suit

20. Where, upon the report of an investigation made under subsection 1 of section 18, it appears to the Director that a person may have, Report

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence, under the *Criminal Code* (Canada) or under the law of any jurisdiction, that is relevant to his fitness to receive a certificate of acceptance under this Act. R.S.C. 1970, c. C-34

the Director shall send a full and complete report of the investigation, including the report made to him, any transcript of evidence and any material in the possession of the Director relating thereto, to the Minister.

21.—(1) Where,

- (a) an investigation of any person has been ordered under section 18; or
- (b) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are connected with or arise out of the business in respect of which a prospectus is required under this Act,

Order to
refrain from
dealing with
assets

the Director, if he believes it advisable for the protection of investors or customers of the person referred to in clause *a* or *b* may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds or direct the person referred to in clause *a* or *b* to hold such assets or trust funds or direct the person referred to in clause *a* or *b* to refrain from withdrawing any such assets

or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of investors, customers or others in his possession or control in trust for any interim receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act*, or the *Winding-up Act* (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

R.S.C. 1970,
cc. B-4, W-11

R.S.O. 1970,
cc. 228, 89, 53

Bond in
lieu

(2) Subsection 1 does not apply where the person referred to in clause *a* or *b* of subsection 1 files with the Director,

(a) a personal bond accompanied by collateral security;

R.S.O. 1970,
c. 196

(b) a bond of a guarantee company approved under *The Guarantee Companies Securities Act*; or

(c) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

in such form, terms and amount as the Director may determine.

Application
for direction

(3) Any person in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just.

Notice to
registrar of
deeds, etc.

(4) In any of the circumstances mentioned in clause *a* or *b* of subsection 1, the Director may in writing or by telegram notify any registrar of deeds or master of titles that proceedings are being or are about to be taken that may affect land belonging to the person referred to in the notice, and the notice shall be registered against the lands mentioned therein and has the same effect as the registration of a certificate of *lis pendens* except that the Director may in writing revoke or modify the notice.

Cancellation
of direction
or registra-
tion

(5) Any person referred to in clause *a* or *b* of subsection 1 in respect of whom a direction has been given by the Director under subsection 1 or any person having an interest in land in respect of which a notice has been registered under subsection 4 may, at any time, apply to the Tribunal for cancellation in whole or in part of the direction or

registration and the Tribunal shall dispose of the application after a hearing and may, if it finds that such a direction or registration is not required in whole or in part for the protection of investors or customers of the applicant or of other persons interested in the land or that the interests of other persons are unduly prejudiced thereby, cancel the direction or registration in whole or in part, and the applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal.

22.—(1) Any notice or order required to be given or ^{Service} served under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service set out in the prospectus or supplementary prospectus.

(2) Where service is made by registered mail, the service ^{When service} shall be deemed to be made on the third day after the day ^{deemed to} of mailing unless the person on whom service is being made ^{be made} establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

(3) Notwithstanding subsections 1 and 2, the Tribunal ^{Idem} may order any other method of service in respect of any matter before the Tribunal.

23.—(1) Where it appears to the Director that any person ^{Restraining} does not comply with any provision of this Act, the regula- ^{orders} tions or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application, the judge may make such order or such other order as the judge thinks fit.

(2) An appeal lies to the Court of Appeal from an order ^{Appeal} made under subsection 1.

24.—(1) Every person who, ^{Offences}

- (a) makes a statement in any application, report, prospectus, return, financial statement or other document, required to be filed or furnished under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading;

(b) fails to comply with any order, direction or other requirement under this Act; or

(c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such act, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both.

Corporations (2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$100,000 and not as provided therein.

Limitation (3) No proceeding under clause *a* of subsection 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director.

Idem (4) No proceeding under clause *b* or *c* of subsection 1 shall be commenced more than two years after the time when the subject-matter of the proceeding arose.

Certificate as evidence **25.—(1)** A statement as to,

(a) the issuance or non-issuance of a certificate of acceptance;

(b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;

(c) the time when the facts upon which proceedings are based first come to the knowledge of the Director; or

(d) any other matter pertaining to such certificate, filing or non-filing,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Proof of Minister's signature (2) Any document under this Act purporting to be signed by the Minister, or any certified copy thereof, is receivable in evidence in any action, prosecution or other proceeding as *prima facie* proof that the document is signed by the Minister without proof of the office or signature of the Minister.

26. The Lieutenant Governor in Council may make Regulations regulations,

- (a) exempting any class of person from this Act or the regulations or any provision thereof;
- (b) governing the filing of a prospectus or supplementary prospectus and prescribing terms and conditions in relation thereto;
- (c) requiring the payment of fees and prescribing the amounts thereof;
- (d) prescribing the form and content of agreements by which persons become investors in pyramid schemes or any terms thereof;
- (e) governing the property or funds held in escrow under section 12;
- (f) governing the form and content of prospectuses for pyramid schemes;
- (g) requiring promoters or investors to be bonded in such form and terms and with such collateral security as are prescribed and providing for the forfeiture of bonds and the disposition of the proceeds;
- (h) requiring and governing the books, accounts and records that shall be kept by promoters;
- (i) requiring promoters or investors to make returns and furnish information to the Registrar;
- (j) prescribing forms for the purposes of this Act and providing for their use; and
- (k) requiring any information required to be furnished or contained in any form or return to be verified by affidavit.

27.—(1) Nothing in this Act shall be construed to make Sale to consumer under unlawful scheme unlawful the sale to consumers of commodities received by the seller under a pyramid scheme the operation of which becomes unlawful under or by virtue of this Act, where the commodities were received by the seller before the pyramid scheme became unlawful, but the Registrar may, upon notice to the seller, prohibit such sale where the commodity is defective in quality or the warranty is defective or incapable of performance.

Extension
of time
for filing
prospectus

(2) Upon application therefor, the Registrar may, in writing, extend the time for the filing of a prospectus and the issuance of a certificate of acceptance for the purpose of section 3 for a period or periods not exceeding a total of ninety days after this Act comes into force where in his opinion there is a reasonable likelihood that the prospectus, when filed, will comply with the requirements of this Act.

Commence-
ment

28. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

29. This Act may be cited as *The Pyramidic Sales Act, 1972*.

An Act to control Pyramid Methods for
the distribution and sale of Commodities

1st Reading

May 4th, 1972

2nd Reading

May 9th, 1972

3rd Reading

May 25th, 1972

THE HON. E. WINKLER
Minister of Consumer and
Commercial Relations

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Insurance Act

MR. SHULMAN

EXPLANATORY NOTES

SECTION 1. On and after the 1st day of January, 1974, the sale of automobile insurance in Ontario by any insurer other than the Government of the Province of Ontario or a board, commission or agency thereof is prohibited.

SECTION 2. Complementary to section 1.

SECTION 3. Self-explanatory.

BILL 110

1972

An Act to amend The Insurance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Insurance Act*, being chapter 224 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

198a. On and after the day on which this section comes into force, no insurer, other than the Government of the Province of Ontario or a board, commission or agency thereof, shall undertake or agree or offer to undertake a contract of automobile insurance in Ontario or carry on the business of automobile insurance in Ontario.

2. Subject to section 3, Part VI of the said Act is repealed.

3. Part VI of the said Act as it was in force immediately before the day on which section 2 comes into force continues to apply to contracts of automobile insurance made before the day on which section 2 comes into force until the contract expires or is cancelled.

4. This Act comes into force on the 1st day of January, 1974.

5. This Act may be cited as *The Insurance Amendment Act, 1972*.

An Act to amend The Insurance Act

1st Reading

May 5th, 1972

2nd Reading

3rd Reading

MR. SHULMAN

(*Private Member's Bill*)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to provide for the Establishment
of Safety Committees**

MR. HAGGERTY

THE UNIVERSITY OF CHICAGO
 LIBRARY

THE UNIVERSITY OF CHICAGO
 LIBRARY

EXPLANATORY NOTE

Self-explanatory.

BILL 111

1972

An Act to provide for the Establishment of Safety Committees

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, "Minister" means the Minister of Labour. Interpre-
tation
2. Every industry shall establish a safety committee which Safety
committee
established shall have equal representation from both the employers and employees in the industry.
3. Every safety committee, upon the request of the Duties of
safety
committee Minister, shall advise him respecting the safety of workers in the industry which it represents and, without restricting the generality of the foregoing, inquire into and advise him upon any laws respecting the safety of workers in the industry with a view to the improvement, clarification or extension of the existing laws or the enactment of new laws or inquire into and advise him upon any matter designed to co-ordinate the functions of all bodies concerned with the safety of workers.
4. Where an accident or injury occurs on a job site, the Notification
where
accident
or injury foreman or person in charge of the job site shall forthwith notify the safety committee representing the particular industry that an accident or injury has occurred.
5. Where a safety committee receives a report concerning Idem an accident or injury on a job site, the committee shall report in writing to the Minister that an accident or injury has occurred and outline any recommendations it may have as to the future prevention of a similar accident or injury.
6. This Act comes into force on the day it receives Royal Commence-
ment Assent.
7. This Act may be cited as *The Safety Committees Act*, Short title 1972.

An Act to provide for the
Establishment of Safety Committees

1st Reading

May 5th, 1972

2nd Reading

3rd Reading

MR. HAGERTY

(Private Member's Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to amend
The Municipality of Metropolitan Toronto Act**

MR. LEWIS

EXPLANATORY NOTE

The Bill requires the Metropolitan Council of The Municipality of Metropolitan Toronto to prepare, adopt and forward an official plan to the Minister before the 30th day of November, 1975 unless the Minister is satisfied that an extension should be allowed. The Bill also provides for the withholding of any grants payable to the Metropolitan Council with the exception of welfare grants should the official plan not be filed before the required date.

BILL 112

1972

An Act to amend The Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 202 of *The Municipality of Metropolitan Toronto Act*, being chapter 295 of the Revised Statutes of Ontario, 1970, ^{s. 202, re-enacted} is repealed and the following substituted therefor:

202.—(1) Subject to subsection 3, the Metropolitan ^{Official plan} Council, before the 30th day of November, 1975, shall prepare, adopt and forward to the Minister for approval an official plan for The Metropolitan Toronto Planning Area.

- (2) The scope of the official plan shall include, Scope of official plan
- (a) land use and consideration generally of industrial, agricultural, residential and commercial areas;
 - (b) ways of communication;
 - (c) sanitation;
 - (d) green belts and park areas;
 - (e) roads;
 - (f) public transportation,

and such other matters as the Minister may from time to time define under *The Planning Act*.

R.S.O. 1970,
c. 349

- (3) Where he is satisfied that reasonable efforts are being ^{Extension} made to prepare and adopt an official plan, the Minister may extend the deadline set out in subsection 1.

Withholding
of grants

R.S.O. 1970,
c. 192

- (4) Except for payments to the Metropolitan Corporation under *The General Welfare Assistance Act*, where an official plan is not forwarded to the Minister before the date set out in subsection 1 and the Minister is not satisfied that reasonable efforts are being made to prepare and adopt one, the Minister may withhold all grants payable to the Metropolitan Corporation.

Commence-
ment

- 2.** This Act comes into force on the day it receives Royal Assent.

Short title

- 3.** This Act may be cited as *The Municipality of Metropolitan Toronto Amendment Act, 1972*.

An Act to amend
The Municipality of Metropolitan
Toronto Act

1st Reading

May 5th, 1972

2nd Reading

3rd Reading

MR. LEWIS

(Private Member's Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to amend
The Municipality of Metropolitan Toronto Act**

THE HON. T. L. WELLS
Minister of Education

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

EXPLANATORY NOTES

SECTION 1. The amendment excludes The Metropolitan Toronto School Board from the authority of the auditors appointed by the Metropolitan Council. This is complementary to the new section 127*a* authorizing The Metropolitan Toronto School Board to appoint its own auditors in the same manner as divisional boards of education.

SECTION 2. Subsection 2 is revised to refer to members elected by public school electors. This is to conform to section 24 of *The Secondary Schools and Boards of Education Act* respecting the election of members by separate school supporters.

SECTION 3.—Subsection 1. The subsection is amended to render it consistent with changes in *The Secondary Schools and Boards of Education Act* whereby boards of education are not established by by-law and to make it clear that the Acts and regulations named therein apply to the boards of education for the area municipalities.

Subsection 2. The amendment provides that the boards of education in Metropolitan Toronto shall have the same powers and duties as divisional boards in respect of auditors.

BILL 113

1972

An Act to amend The Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 22 of *The Municipality of Metropolitan Toronto Act*, being chapter 295 of the Revised Statutes of Ontario, 1970, is amended by adding at the end thereof "except The Metropolitan Toronto School Board". s. 22 (1),
amended

2. Subsection 2 of section 118 of the said Act is repealed and the following substituted therefor: s. 118 (2),
re-enacted

- (2) The number of members to be elected by public school electors to the boards of education, Members
elected by
public school
electors
- (a) for the City of Toronto and for the boroughs of Etobicoke and East York shall be two in each ward of the city or borough, as the case may be;
- (b) for each of the other area municipalities shall be one in each ward of the area municipality.

3.—(1) Subsection 1 of section 119 of the said Act is repealed and the following substituted therefor: s. 119 (1),
re-enacted

- (1) The provisions of *The Ministry of Education Act*, *The Public Schools Act*, *The Schools Administration Act*, Parts I, II, III, V and VI of *The Secondary Schools and Boards of Education Act* and the regulations that are not inconsistent with this Act apply to the boards of education referred to in subsection 1 of section 118, and, so far as such provisions are inconsistent with this Act, they do not apply to such boards of education. Application
of R.S.O. 1970,
cc. 385, 424,
425, 430

(2) The said section 119 is amended by adding thereto the following subsection: s. 119,
amended

Auditors for
boards of
education for
area municipi-
palities
R.S.O. 1970,
c. 425

- (1a) Section 36 of *The Secondary Schools and Boards of Education Act* applies *mutatis mutandis* to each such board of education as if it were a divisional board of education.

s. 121 (2),
re-enacted

- 4.—(1) Subsection 2 of section 121 of the said Act is repealed and the following substituted therefor:

Composition
of School
Board

- (2) On and after the 1st day of January, 1973, the School Board, subject to subsection 6, shall be composed of the chairman of each board of education in the Metropolitan Area and,

- (a) one member of and appointed by The Board of Education for the Borough of Etobicoke;
- (b) three members of and appointed by The Board of Education for the Borough of North York;
- (c) two members of and appointed by The Board of Education for the Borough of Scarborough;
- (d) five members of and appointed by The Board of Education for the City of Toronto; and
- (e) three members appointed by the Metropolitan Separate School Board who may be members of such board.

s. 121 (3),
amended

- (2) Subsection 3 of the said section 121 is amended by inserting after "York" in the first line "The Board of Education for the Borough of Etobicoke".

s. 121 (6),
re-enacted

- (3) Subsection 6 of the said section 121 is repealed and the following substituted therefor:

Disqualifica-
tion of
member of
board of
education

- (6) A member of a board of education for an area municipality who is,
- (a) elected by separate school supporters; or
 - (b) appointed, in the case of a vacancy, by the remaining members elected to the board of education by separate school supporters or by the Metropolitan Separate School Board,

is not eligible to be a member of the School Board and, where such member is the chairman of the board of education, the board of education shall appoint in his stead another member thereof as a member of the School Board.

SECTION 4.—Subsection 1. Subsection 2 is revised to correct a reference, increase the members of the School Board appointed by The Board of Education for the Borough of North York in addition to the chairman from two to three and the members appointed by The Board of Education for the Borough of Scarborough from one to two, and to make it clear that the members appointed by the Metropolitan Separate School Board may be members of such board.

Subsection 2. The amendment permits The Board of Education for the Borough of Etobicoke to appoint an alternate member of the School Board on the same basis as the boards of education for the boroughs of East York and York.

Subsection 3. Subsection 6 is revised as complementary to the amendment to section 24 of *The Secondary Schools and Boards of Education Act* requiring members representing separate school supporters on a board of education to be elected rather than appointed.

SECTION 5. The amendment requires an alternate member to file a certificate of qualification before taking his seat as it is now required in respect of a member.

SECTION 6. The subsection is amended to refer not only to members appointed by the Metropolitan Separate School Board under section 121 (2) (e) but also, in the case of a vacancy, to those appointed under section 126 (3).

SECTION 7. The amendment provides,

1. for inclusion in the estimates of the School Board of an item for expenditure where the board or boards that are to make the expenditure have not been designated by the School Board at the time of the making of the estimates ;
2. for the holding of conferences with members and officers of the boards of education ;
3. for the destruction of documents in accordance with *The Schools Administration Act*.

SECTION 8. The new section provides that the School Board shall have the same powers as a divisional board of education in respect of auditors.

SECTION 9. The amendment removes an obsolete reference.

(7) No person employed by the School Board is eligible to be a member of the School Board. Disqualification of employee

5. Subsection 3 of section 122 of the said Act is amended by inserting after "121" in the second line "or an alternate member of the School Board under subsection 3 of section 121" and by adding at the end thereof "or an alternate member, as the case may be". s. 122 (3), amended

6. Subsection 3 of section 124 of the said Act is amended by striking out "under clause e of subsection 2 of section 121" in the first and second lines and inserting in lieu thereof "by the Metropolitan Separate School Board". s. 124 (3), amended

7. Section 127 of the said Act is amended by adding thereto the following subsection: s. 127, amended

(2) The School Board may,

Additional powers

- (a) include in its estimates a sum for expenditures by or on behalf of one or more boards of education within the Metropolitan Area without designating such board or boards and, when such board or boards have been designated, pay amounts from such sum to or on behalf of such board or boards;
- (b) hold conferences with members and officers of the boards of education for the area municipalities and pay all or part of the costs incurred in connection with such conferences including all or part of the expenses of members and officers of the School Board and of the boards of education for the area municipalities; and
- (c) authorize the destruction of documents in accordance with *The Schools Administration Act*. R.S.O. 1970, c. 424

8. The said Act is amended by adding thereto the following section: s. 127a, enacted

127a. Section 36 of *The Secondary Schools and Boards of Education Act* applies *mutatis mutandis* to the School Board as if it were a divisional board of education. Auditors for school board, etc. R.S.O. 1970, c. 425

9. Subsection 3 of section 131 of the said Act is amended by striking out "and for items eligible for stimulation grants" in the second and third lines. s. 131 (3), amended

Commence- ment	10. —(1) This Act, except section 1, subsection 2 of section 3 and sections 4 and 8, comes into force on the day it receives Royal Assent.
Idem	(2) Section 1, subsection 2 of section 3 and sections 4 and 8 come into force on the 1st day of January, 1973.
Short title	11. This Act may be cited as <i>The Municipality of Metropolitan Toronto Amendment Act, 1972</i> .

An Act to amend The Municipality
of Metropolitan Toronto Act

1st Reading

May 8th, 1972

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Education

(Government Bill)

BILL 113

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Municipality of Metropolitan Toronto Act

THE HON. T. L. WELLS
Minister of Education

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

BILL 113 **1972**

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- (2) The number of members to be elected by public school electors to the boards of education, Members
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- (a) for the City of Toronto and for the boroughs of Etobicoke and East York shall be two in each ward of the city or borough, as the case may be;
- (b) for each of the other area municipalities shall be one in each ward of the area municipality.

3.—(1) Subsection 1 of section 119 of the said Act is repealed and the following substituted therefor: s. 119 (1),
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- (1) The provisions of *The Ministry of Education Act*, *The Public Schools Act*, *The Schools Administration Act*, Parts I, II, III, V and VI of *The Secondary Schools and Boards of Education Act* and the regulations that are not inconsistent with this Act apply to the boards of education referred to in subsection 1 of section 118, and, so far as such provisions are inconsistent with this Act, they do not apply to such boards of education. Application
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Auditors for
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(c) two members of and appointed by The Board of Education for the Borough of Scarborough;

(d) five members of and appointed by The Board of Education for the City of Toronto; and

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- (6) A member of a board of education for an area municipality who is,

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is not eligible to be a member of the School Board and, where such member is the chairman of the board of education, the board of education shall appoint in his stead another member thereof as a member of the School Board.

- (7) No person employed by the School Board is eligible to be a member of the School Board. Disqualification of employee

5. Subsection 3 of section 122 of the said Act is amended by inserting after "121" in the second line "or an alternate member of the School Board under subsection 3 of section 121" and by adding at the end thereof "or an alternate member, as the case may be". s. 122 (3), amended

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- (2) The School Board may,

Additional powers

- (a) include in its estimates a sum for expenditures by or on behalf of one or more boards of education within the Metropolitan Area without designating such board or boards and, when such board or boards have been designated, pay amounts from such sum to or on behalf of such board or boards;
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- (c) authorize the destruction of documents in accordance with *The Schools Administration Act*. R.S.O. 1970, c. 424

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127a. Section 36 of *The Secondary Schools and Boards of Education Act* applies *mutatis mutandis* to the School Board as if it were a divisional board of education. Auditors for school board, etc. R.S.O. 1970, c. 425

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Commence-
ment

10.—(1) This Act, except section 1, subsection 2 of section 3 and sections 4 and 8, comes into force on the day it receives Royal Assent.

Idem

(2) Section 1, subsection 2 of section 3 and sections 4 and 8 come into force on the 1st day of January, 1973.

Short title

11. This Act may be cited as *The Municipality of Metropolitan Toronto Amendment Act, 1972*.

An Act to amend The Municipality
of Metropolitan Toronto Act

1st Reading

May 8th, 1972

2nd Reading

May 16th, 1972

3rd Reading

May 16th, 1972

THE HON. T. L. WELLS
Minister of Education

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to amend
The Ontario Institute for Studies in Education Act**

THE HON. T. L. WELLS
Minister of Education

EXPLANATORY NOTE

The amendment changes the fiscal year of the Institute to coincide with the semester year which provides a spring semester ending on April 30th and a summer semester beginning on May 1st.

BILL 114

1972

An Act to amend The Ontario Institute for Studies in Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 8 of *The Ontario Institute for Studies in Education Act*, being chapter 319 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:
 8. The fiscal year of the Board that commences on the 1st day of July, 1972 shall end on the 30th day of April, 1973, and thereafter the fiscal year of the Board shall commence on the 1st day of May of each year and end on the 30th day of April of the following year.
2. This Act comes into force on the 1st day of July, 1972.
3. This Act may be cited as *The Ontario Institute for Studies in Education Amendment Act, 1972*.

s. 8,
re-enactedFiscal
yearCommence-
ment

Short title

An Act to amend
The Ontario Institute for
Studies in Education Act

1st Reading

May 9th, 1972

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Education

(Government Bill)

BILL 114

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Ontario Institute for Studies in Education Act

THE HON. T. L. WELLS
Minister of Education

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

THEORY OF THE EARTH, AND THE
 THEORY OF THE HEAVENS

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s. 8,
re-enactedFiscal
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ment

Short title

An Act to amend
The Ontario Institute for
Studies in Education Act

1st Reading

May 9th, 1972

2nd Reading

May 16th, 1972

3rd Reading

May 16th, 1972

THE HON. T. L. WELLS
Minister of Education

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to amend
The Ontario Development Corporation Act**

THE HON. J. WHITE
Minister of Industry and Tourism

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

EXPLANATORY NOTES

SECTION 1. The maximum number of directors of the Corporation is increased from nine to thirteen. The minimum remains at five.

SECTION 2. The provisions for an executive committee are deleted.

SECTION 3.—Subsection 1. The instances where approvals of the Lieutenant Governor in Council are required are delegated to be prescribed by regulation.

Subsection 2. The repeal removes the limits on loans and guarantees and removes the time limit for forgiving of loans.

SECTION 4. The new provision requires annual reports of the particulars of all loans and guarantees.

BILL 115

1972

An Act to amend The Ontario Development Corporation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 2 of *The Ontario Development Corporation Act*, being chapter 308 of the Revised Statutes of Ontario, 1970, is amended by striking out "nine" in the third line and inserting in lieu thereof "thirteen". s. 2 (1),
amended

2. Subsections 2 and 3 of section 5 of the said Act are repealed. s. 5 (2, 3),
repealed

3.—(1) Subsection 2 of section 8 of the said Act is repealed and the following substituted therefor: s. 8 (2),
re-enacted

(2) The Lieutenant Governor in Council may, by regulation, require the approval by the Lieutenant Governor in Council of the exercise of all or any of the powers of the Corporation under subsection 1. Approvals by
Lieutenant
Governor in
Council

(2) Subsection 4 of the said section 8, as amended by the Statutes of Ontario, 1971, chapter 67, section 1, is repealed. s. 8 (4),
repealed

4. Section 21 of the said Act is amended by adding thereto the following subsection: s. 21,
amended

(1a) The Corporation shall, in addition to making an annual report under subsection 1, make to the Minister an annual report of all the loans made and of all the guarantees given for the payment of loans under section 8, setting out the amounts and the terms of the loans and the guarantees together with the names and the addresses of the persons to whom the loans are made or in respect of whom the guarantees are given, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. Annual
report

Commence- ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. This Act may be cited as *The Ontario Development Corporation Amendment Act, 1972*.

An Act to amend
The Ontario Development
Corporation Act

1st Reading

May 11th, 1972

2nd Reading

3rd Reading

THE HON. J. WHITE
Minister of Industry and Tourism

(*Government Bill*)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to amend
The Ontario Development Corporation Act**

THE HON. J. WHITE
Minister of Industry and Tourism

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. The maximum number of directors of the Corporation is increased from nine to thirteen. The minimum remains at five.

SECTION 2. The provisions for an executive committee are deleted.

SECTION 3.—Subsection 1. The instances where approvals of the Lieutenant Governor in Council are required are delegated to be prescribed by regulation.

Subsection 2. The repeal removes the limits on loans and guarantees and removes the time limit for forgiving of loans.

SECTION 4. The new provision requires annual reports of the particulars of all loans and guarantees.

BILL 115

1972

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1. Subsection 1 of section 2 of *The Ontario Development Corporation Act*, being chapter 308 of the Revised Statutes of Ontario, 1970, is amended by striking out "nine" in the third line and inserting in lieu thereof "thirteen". s. 2 (1),
amended

2. Subsections 2 and 3 of section 5 of the said Act are repealed. s. 5 (2, 3),
repealed

3.—(1) Subsection 2 of section 8 of the said Act is repealed and the following substituted therefor: s. 8 (2),
re-enacted

(2) The powers conferred by clause *c* of subsection 1 shall only be exercised with the approval of the Lieutenant Governor in Council and the Lieutenant Governor in Council may, by regulation, require the approval by the Lieutenant Governor in Council of the exercise of all or any of the powers of the Corporation conferred by clauses *a* and *b* of subsection 1. Approvals by
Lieutenant
Governor in
Council

(2) Subsection 4 of the said section 8, as amended by the Statutes of Ontario, 1971, chapter 67, section 1, is repealed. s. 8 (4),
repealed

4. Section 21 of the said Act is amended by adding thereto the following subsection: s. 21,
amended

(1a) The Corporation shall, in addition to making an annual report under subsection 1, make to the Minister an annual report of all the loans made and of all the guarantees given for the payment of loans under section 8, setting out the amounts and the terms of the loans and the guarantees together with the names and the addresses of the persons to whom Annual
report

the loans are made or in respect of whom the guarantees are given, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. This Act may be cited as *The Ontario Development Corporation Amendment Act, 1972*.

An Act to amend
The Ontario Development
Corporation Act

1st Reading

May 11th, 1972

2nd Reading

May 25th, 1972

3rd Reading

THE HON. J. WHITE
Minister of Industry and Tourism

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 115

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Ontario Development Corporation Act

THE HON. J. WHITE
Minister of Industry and Tourism

TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER AND PUBLISHER

BILL 115

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1. Subsection 1 of section 2 of *The Ontario Development Corporation Act*, being chapter 308 of the Revised Statutes of Ontario, 1970, is amended by striking out "nine" in the third line and inserting in lieu thereof "thirteen". s. 2 (1),
amended

2. Subsections 2 and 3 of section 5 of the said Act are repealed. s. 5 (2, 3),
repealed

3.—(1) Subsection 2 of section 8 of the said Act is repealed and the following substituted therefor: s. 8 (2),
re-enacted

(2) The powers conferred by clause *c* of subsection 1 shall only be exercised with the approval of the Lieutenant Governor in Council and the Lieutenant Governor in Council may, by regulation, require the approval by the Lieutenant Governor in Council of the exercise of all or any of the powers of the Corporation conferred by clauses *a* and *b* of subsection 1. Approvals by
Lieutenant
Governor in
Council

(2) Subsection 4 of the said section 8, as amended by the Statutes of Ontario, 1971, chapter 67, section 1, is repealed. s. 8 (4),
repealed

4. Section 21 of the said Act is amended by adding thereto the following subsection: s. 21,
amended

(1a) The Corporation shall, in addition to making an annual report under subsection 1, make to the Minister an annual report of all the loans made and of all the guarantees given for the payment of loans under section 8, setting out the amounts and the terms of the loans and the guarantees together with the names and the addresses of the persons to whom Annual
report

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Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. This Act may be cited as *The Ontario Development Corporation Amendment Act, 1972*.

An Act to amend
The Ontario Development
Corporation Act

1st Reading

May 11th, 1972

2nd Reading

May 25th, 1972

3rd Reading

June 21st, 1972

THE HON. J. WHITE
Minister of Industry and Tourism

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to amend
The Northern Ontario Development Corporation Act**

THE HON. J. WHITE
Minister of Industry and Tourism

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The maximum number of directors of the Corporation is increased from nine to thirteen. The minimum remains at five.

Subsection 2. At present the vice-chairman of Ontario Development Corporation is *ex officio* a member of the Board. The amendment requires one member to be a director of Ontario Development Corporation.

SECTION 2. The provisions for an executive committee are deleted.

SECTION 3.—Subsections 1 and 2. The instances where approvals of the Lieutenant Governor in Council are required are delegated to be prescribed by regulation.

Subsection 3. The repeal removes the limits on loans and guarantees and removes the time limit for forgiving of loans.

SECTION 4. The new provision requires annual reports of the particulars of all loans and guarantees.

BILL 116

1972

An Act to amend The Northern Ontario Development Corporation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 2 of *The Northern Ontario Development Corporation Act*, being chapter 299 of the Revised Statutes of Ontario, 1970, is amended by striking out “nine” in the third line and inserting in lieu thereof “thirteen”. s. 2 (1),
amended

(2) Subsection 2 of the said section 2 is repealed and the following substituted therefor: s. 2 (2),
re-enacted

(2) One member shall be appointed from among the directors of Ontario Development Corporation. Director
of O.D.C.
to be
member

2. Subsections 2 and 3 of section 4 of the said Act are repealed. s. 4 (2, 3),
repealed

3.—(1) Subsection 1 of section 6 of the said Act is amended by striking out “subject to the approval of the Lieutenant Governor in Council” in the second and third lines. s. 6 (1),
amended

(2) The said section 6 is amended by adding thereto the following subsection: s. 6,
amended

(1a) The Lieutenant Governor in Council may, by regulation, require the approval by the Lieutenant Governor in Council of the exercise of all or any of the powers of the Corporation under subsection 1. Approvals by
Lieutenant
Governor
in Council

(3) Subsection 3 of the said section 6, as amended by the Statutes of Ontario, 1971, chapter 87, section 1, is repealed. s. 6 (3),
repealed

4. Section 12 of the said Act is amended by adding thereto the following subsection: s. 12,
amended

**Annual
report**

- (1a) The Corporation shall, in addition to making an annual report under subsection 1, make to the Minister an annual report of all the loans made and of all the guarantees given for the payment of loans under section 6, setting out the amounts and the terms of the loans and the guarantees together with the names and addresses of the persons to whom the loans are made or in respect of whom the guarantees are given, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

**Commence-
ment**

- 5.** This Act comes into force on the day it receives Royal Assent.

Short title

- 6.** This Act may be cited as *The Northern Ontario Development Corporation Amendment Act, 1972*.

An Act to amend
The Northern Ontario Development
Corporation Act

1st Reading

May 11th, 1972

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3rd Reading

THE HON. J. WHITE
Minister of Industry and Tourism

(Government Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to amend
The Northern Ontario Development Corporation Act**

THE HON. J. WHITE
Minister of Industry and Tourism

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The maximum number of directors of the Corporation is increased from nine to thirteen. The minimum remains at five.

Subsection 2. At present the vice-chairman of Ontario Development Corporation is *ex officio* a member of the Board. The amendment requires one member to be a director of Ontario Development Corporation.

SECTION 2. The provisions for an executive committee are deleted.

SECTION 3.—Subsections 1 and 2. The instances where approvals of the Lieutenant Governor in Council are required are delegated to be prescribed by regulation.

Subsection 3. The repeal removes the limits on loans and guarantees and removes the time limit for forgiving of loans.

BILL 116

1972

**An Act to amend
The Northern Ontario Development
Corporation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 2 of *The Northern Ontario Development Corporation Act*, being chapter 299 of the Revised Statutes of Ontario, 1970, is amended by striking out “nine” in the third line and inserting in lieu thereof “thirteen”. s. 2 (1),
amended

(2) Subsection 2 of the said section 2 is repealed and the following substituted therefor: s. 2 (2),
re-enacted

(2) One member shall be appointed from among the directors of Ontario Development Corporation. Director
of O.D.C.
to be
member

2. Subsections 2 and 3 of section 4 of the said Act are repealed. s. 4 (2, 3),
repealed

3.—(1) Subsection 1 of section 6 of the said Act is amended by striking out “subject to the approval of the Lieutenant Governor in Council” in the second and third lines. s. 6 (1),
amended

(2) The said section 6 is amended by adding thereto the following subsection: s. 6,
amended

(1a) The powers conferred by clause *c* of subsection 1 shall only be exercised with the approval of the Lieutenant Governor in Council and the Lieutenant Governor in Council may, by regulation, require the approval by the Lieutenant Governor in Council of the exercise of all or any of the powers of the Corporation conferred by clauses *a* and *b* of subsection 1. Approvals by
Lieutenant
Governor
in Council

(3) Subsection 3 of the said section 6, as amended by the Statutes of Ontario, 1971, chapter 87, section 1, is repealed. s. 6 (3),
repealed

s. 12,
amended

4. Section 12 of the said Act is amended by adding thereto the following subsection:

Annual
report

(1a) The Corporation shall, in addition to making an annual report under subsection 1, make to the Minister an annual report of all the loans made and of all the guarantees given for the payment of loans under section 6, setting out the amounts and the terms of the loans and the guarantees together with the names and addresses of the persons to whom the loans are made or in respect of whom the guarantees are given, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. This Act may be cited as *The Northern Ontario Development Corporation Amendment Act, 1972*.

SECTION 4. The new provision requires annual reports of the particulars of all loans and guarantees.

An Act to amend
The Northern Ontario Development
Corporation Act

1st Reading

May 11th, 1972

2nd Reading

May 25th, 1972

3rd Reading

THE HON. J. WHITE
Minister of Industry and Tourism

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 116

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Northern Ontario Development Corporation Act

THE HON. J. WHITE
Minister of Industry and Tourism

TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER AND PUBLISHER

BILL 116

1972

An Act to amend The Northern Ontario Development Corporation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 of section 2 of *The Northern Ontario Development Corporation Act*, being chapter 299 of the Revised Statutes of Ontario, 1970, is amended by striking out “nine” in the third line and inserting in lieu thereof “thirteen”. s. 2 (1),
amended

(2) Subsection 2 of the said section 2 is repealed and the following substituted therefor: s. 2 (2),
re-enacted

(2) One member shall be appointed from among the directors of Ontario Development Corporation. Director
of O.D.C.
to be
member

2. Subsections 2 and 3 of section 4 of the said Act are repealed. s. 4 (2, 3),
repealed

3.—(1) Subsection 1 of section 6 of the said Act is amended by striking out “subject to the approval of the Lieutenant Governor in Council” in the second and third lines. s. 6 (1),
amended

(2) The said section 6 is amended by adding thereto the following subsection: s. 6,
amended

(1a) The powers conferred by clause *c* of subsection 1 shall only be exercised with the approval of the Lieutenant Governor in Council and the Lieutenant Governor in Council may, by regulation, require the approval by the Lieutenant Governor in Council of the exercise of all or any of the powers of the Corporation conferred by clauses *a* and *b* of subsection 1. Approvals by
Lieutenant
Governor
in Council

(3) Subsection 3 of the said section 6, as amended by the Statutes of Ontario, 1971, chapter 87, section 1, is repealed. s. 6 (3),
repealed

s. 12,
amended

4. Section 12 of the said Act is amended by adding thereto the following subsection:

Annual
report

(1a) The Corporation shall, in addition to making an annual report under subsection 1, make to the Minister an annual report of all the loans made and of all the guarantees given for the payment of loans under section 6, setting out the amounts and the terms of the loans and the guarantees together with the names and addresses of the persons to whom the loans are made or in respect of whom the guarantees are given, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. This Act may be cited as *The Northern Ontario Development Corporation Amendment Act, 1972*.

An Act to amend
The Northern Ontario Development
Corporation Act

1st Reading

May 11th, 1972

2nd Reading

May 25th, 1972

3rd Reading

June 21st, 1972

THE HON. J. WHITE
Minister of Industry and Tourism

**2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972**

An Act to amend The Children's Institutions Act

THE HON. R. BRUNELLE
Minister of Community and Social Services

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

EXPLANATORY NOTES

SECTION 1. The definition of "children's institution" is restated so as not necessarily to be limited to establishments caring for persons under eighteen years of age.

An Act to amend The Children's Institutions Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *d* of section 1 of *The Children's Institutions Act*, ^{s. 1 (d),} ^{re-enacted} being chapter 66 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

- (*d*) "children's institution" means a building or buildings maintained and operated by an approved corporation for children and other persons requiring sheltered, specialized or group care but does not include,
- (i) a charitable institution under *The Charitable Institutions Act*, ^{R.S.O. 1970, c. 62}
 - (ii) a children's boarding home that is registered under *The Children's Boarding Homes Act*, ^{R.S.O. 1970, c. 65}
 - (iii) a hospital under *The Children's Mental Hospitals Act*, ^{R.S.O. 1970, c. 69}
 - (iv) a boarding home, a place of safety or a receiving home within the meaning of Part II of *The Child Welfare Act*, ^{R.S.O. 1970, c. 64}
 - (v) a day nursery established and operated under *The Day Nurseries Act*, ^{R.S.O. 1970, c. 104}
 - (vi) a children's mental health centre under *The Children's Mental Health Centres Act*, ^{R.S.O. 1970, c. 68}
 - (vii) a home for retarded persons under *The Homes for Retarded Persons Act*, ^{R.S.O. 1970, c. 204}
 - (viii) an institution under *The Mental Hospitals Act*, ^{R.S.O. 1970, c. 270}

R.S.O. 1970,
c. 361

(ix) a private hospital under *The Private Hospitals Act*,

R.S.O. 1970,
c. 363

(x) a sanitarium under *The Private Sanitaria Act*,

R.S.O. 1970,
c. 378

(xi) a hospital under *The Public Hospitals Act*,

R.S.O. 1970,
c. 422

(xii) a sanatorium under *The Sanatoria for Consumptives Act*.

ss. 5, 6,
re-enacted

2. Sections 5 and 6 of the said Act are repealed and the following substituted therefor:

Grants for
construction
of buildings
or additions

5. When the site and plans of a new building or the plans of an addition to an existing building used or to be used as a children's institution have been approved by the Minister under clause *c* of subsection 1 of section 4, he may, out of the moneys appropriated therefor by the Legislature, direct payment to the approved corporation erecting the new building or the addition of an amount equal to the cost to the approved corporation of the new building or the addition, computed in accordance with the regulations, but not exceeding an amount based upon the bed capacity of the new building or the addition, at the rate of \$5,000 per bed or such greater amount per bed as the regulations prescribe.

Grants for
acquisition
of buildings

6. When the acquisition of a building to be used as a children's institution has been approved by the Minister under clause *d* of subsection 1 of section 4, he may, out of the moneys appropriated therefor by the Legislature, direct payment to the approved corporation acquiring the building of an amount equal to the cost to the approved corporation of the acquisition, computed in accordance with the regulations, but not exceeding an amount based upon the bed capacity of the building at the rate of \$1,200 per bed or such greater amount per bed as the regulations prescribe.

s. 7,
re-enacted

3. Section 7 of the said Act is repealed and the following substituted therefor:

Subsidy for
operating and
maintenance
costs

7. There shall be paid to an approved corporation maintaining and operating an approved children's institution, out of the moneys appropriated therefor by the Legislature, an amount equal to 80 per cent, or such higher percentage as the regulations prescribe, of the cost, computed in accordance with the

SECTION 2. The re-enacted sections provide for grants to be made on the direction of the Minister rather than the Lieutenant Governor in Council; the limitation on the amount of a grant based on bed capacity has been retained but may be increased by regulation.

SECTION 3. The re-enacted section providing for operating grants will now permit payment of subsidy for such persons over eighteen years of age as the regulations prescribe; the limit on the subsidy to 80 per cent of the cost has been retained but the percentage may be increased by regulation.

SECTION 4. These amendments to the regulation-making authority are complementary to sections 1, 2 and 3 of the Bill.

regulations, of services provided by the corporation for children and other persons or classes of persons prescribed by the regulations who are not wards of the Crown or wards of a children's aid society under *The Child Welfare Act*.

R.S.O. 1970,
c. 64

4.—(1) Clause *c* of section 10 of the said Act is amended by inserting after “children” in the second line “and other persons”^{s. 10 (c), amended}.

(2) Clause *d* of the said section 10 is repealed and the following substituted therefor:^{s. 10 (d), re-enacted}

(d) governing the admission of children and other persons to children's institutions or to any class thereof, prescribing the classes of children and classes of other persons that may be cared for in any class of children's institutions and the care, maintenance, treatment and other services to be provided for them.

(3) Clause *f* of the said section 10 is amended by inserting after “children” in the second line “and other persons”^{s. 10 (f), amended}.

(4) Clause *i* of the said section 10 is repealed and the following substituted therefor:^{s. 10 (i), re-enacted}

(i) prescribing classes of persons other than children for whom payment shall be made under section 7.

(ia) prescribing the manner of computing the cost of services provided for children and other persons or classes of persons by an approved corporation and prescribing classes of payments for the purpose of determining the amounts of the payments to be made under section 7.

(ib) prescribing a greater amount per bed for the purposes of section 5 or 6 and prescribing a higher percentage for the purposes of section 7.

5.—(1) This Act, except sections 1 and 3 and subsection 4 of section 4, comes into force on the day it receives Royal Assent.^{Commence-ment}

(2) Sections 1 and 3 and subsection 4 of section 4 shall be deemed to have come into force on the 31st day of December, 1971.^{Idem}

6. This Act may be cited as *The Children's Institutions Amendment Act, 1972*.^{Short title}

An Act to amend
The Children's Institutions Act

1st Reading

May 11th, 1972

2nd Reading

3rd Reading

THE HON. R. BRUNELLE
Minister of Community and Social Services

(Government Bill)

BILL 117

**2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972**

An Act to amend The Children's Institutions Act

THE HON. R. BRUNELLE
Minister of Community and Social Services

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

BILL 117

1972

An Act to amend The Children's Institutions Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *d* of section 1 of *The Children's Institutions Act*, ^{s. 1 (d), re-enacted} being chapter 66 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

- (d) "children's institution" means a building or buildings maintained and operated by an approved corporation for children and other persons requiring sheltered, specialized or group care but does not include,
- (i) a charitable institution under *The Charitable Institutions Act*, ^{R.S.O. 1970, c. 62}
 - (ii) a children's boarding home that is registered under *The Children's Boarding Homes Act*, ^{R.S.O. 1970, c. 65}
 - (iii) a hospital under *The Children's Mental Hospitals Act*, ^{R.S.O. 1970, c. 69}
 - (iv) a boarding home, a place of safety or a receiving home within the meaning of Part II of *The Child Welfare Act*, ^{R.S.O. 1970, c. 64}
 - (v) a day nursery established and operated under *The Day Nurseries Act*, ^{R.S.O. 1970, c. 104}
 - (vi) a children's mental health centre under *The Children's Mental Health Centres Act*, ^{R.S.O. 1970, c. 68}
 - (vii) a home for retarded persons under *The Homes for Retarded Persons Act*, ^{R.S.O. 1970, c. 204}
 - (viii) an institution under *The Mental Hospitals Act*, ^{R.S.O. 1970, c. 270}

R.S.O. 1970,
c. 361

(ix) a private hospital under *The Private Hospitals Act*,

R.S.O. 1970,
c. 363

(x) a sanitarium under *The Private Sanitaria Act*,

R.S.O. 1970,
c. 378

(xi) a hospital under *The Public Hospitals Act*,

R.S.O. 1970,
c. 422

(xii) a sanatorium under *The Sanatoria for Consumptives Act*.

ss. 5, 6,
re-enacted

2. Sections 5 and 6 of the said Act are repealed and the following substituted therefor:

Grants for
construction
of buildings
or additions

5. When the site and plans of a new building or the plans of an addition to an existing building used or to be used as a children's institution have been approved by the Minister under clause *c* of subsection 1 of section 4, he may, out of the moneys appropriated therefor by the Legislature, direct payment to the approved corporation erecting the new building or the addition of an amount equal to the cost to the approved corporation of the new building or the addition, computed in accordance with the regulations, but not exceeding an amount based upon the bed capacity of the new building or the addition, at the rate of \$5,000 per bed or such greater amount per bed as the regulations prescribe.

Grants for
acquisition
of buildings

6. When the acquisition of a building to be used as a children's institution has been approved by the Minister under clause *d* of subsection 1 of section 4, he may, out of the moneys appropriated therefor by the Legislature, direct payment to the approved corporation acquiring the building of an amount equal to the cost to the approved corporation of the acquisition, computed in accordance with the regulations, but not exceeding an amount based upon the bed capacity of the building at the rate of \$1,200 per bed or such greater amount per bed as the regulations prescribe.

s. 7,
re-enacted

3. Section 7 of the said Act is repealed and the following substituted therefor:

Subsidy for
operating and
maintenance
costs

7. There shall be paid to an approved corporation maintaining and operating an approved children's institution, out of the moneys appropriated therefor by the Legislature, an amount equal to 80 per cent, or such higher percentage as the regulations prescribe, of the cost, computed in accordance with the

regulations, of services provided by the corporation for children and other persons or classes of persons prescribed by the regulations who are not wards of the Crown or wards of a children's aid society under *The Child Welfare Act*.

R.S.O. 1970,
c. 64

4.—(1) Clause *c* of section 10 of the said Act is amended by ^{s. 10 (c),} inserting after “children” in the second line “and other ^{amended} persons”.

(2) Clause *d* of the said section 10 is repealed and the ^{s. 10 (d),} following substituted therefor: ^{re-enacted}

(*d*) governing the admission of children and other persons to children's institutions or to any class thereof, prescribing the classes of children and classes of other persons that may be cared for in any class of children's institutions and the care, maintenance, treatment and other services to be provided for them.

(3) Clause *f* of the said section 10 is amended by inserting ^{s. 10 (f),} after “children” in the second line “and other persons”. ^{amended}

(4) Clause *i* of the said section 10 is repealed and the ^{s. 10 (i),} following substituted therefor: ^{re-enacted}

(*i*) prescribing classes of persons other than children for whom payment shall be made under section 7.

(*ia*) prescribing the manner of computing the cost of services provided for children and other persons or classes of persons by an approved corporation and prescribing classes of payments for the purpose of determining the amounts of the payments to be made under section 7.

(*ib*) prescribing a greater amount per bed for the purposes of section 5 or 6 and prescribing a higher percentage for the purposes of section 7.

5.—(1) This Act, except sections 1 and 3 and subsection 4 ^{Commence-} of section 4, comes into force on the day it receives Royal ^{ment} Assent.

(2) Sections 1 and 3 and subsection 4 of section 4 shall be ^{Idem} deemed to have come into force on the 31st day of December, 1971.

6. This Act may be cited as *The Children's Institutions* ^{Short title} *Amendment Act, 1972*.

An Act to amend
The Children's Institutions Act

1st Reading

May 11th, 1972

2nd Reading

May 16th, 1972

3rd Reading

May 25th, 1972

THE HON. R. BRUNELLE
Minister of Community and Social Services

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to amend
The Osgoode Hall Law School Scholarships Act, 1968-69**

THE HON. G. A. KERR
Minister of Colleges and Universities

EXPLANATORY NOTE

The Honourable Mr. Justice F. H. Barlow Scholarship may presently be awarded to a male student only. The Bill permits the Scholarship to be awarded to the student who qualifies therefor regardless of sex.

BILL 118

1972

**An Act to amend The Osgoode Hall
Law School Scholarships Act, 1968-69**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 15 of *The Osgoode Hall Law School Scholarships Act, 1968-69*, being chapter 90, is amended by striking out "male" in the eighth line and in the fourteenth line. ^{s. 15, amended}
2. Section 15 of the said Act, as amended by section 1 of ^{Application} this Act, applies in respect of the scholarship awarded in 1972 and subsequent years.
3. This Act comes into force on the day it receives Royal ^{Commence-} Assent. ^{ment}
4. This Act may be cited as *The Osgoode Hall Law School Scholarships Amendment Act, 1972*. ^{Short title}

An Act to amend
The Osgoode Hall Law School
Scholarships Act, 1968-69

1st Reading

May 11th, 1972

2nd Reading

3rd Reading

THE HON. G. A. KERR
Minister of Colleges and Universities

(Government Bill)

BILL 118

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Osgoode Hall Law School Scholarships Act, 1968-69

THE HON. G. A. KERR
Minister of Colleges and Universities

BILL 118

1972

**An Act to amend The Osgoode Hall
Law School Scholarships Act, 1968-69**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 15 of *The Osgoode Hall Law School Scholarships*^{s. 15, amended} Act, 1968-69, being chapter 90, is amended by striking out "male" in the eighth line and in the fourteenth line.

2. Section 15 of the said Act, as amended by section 1 of Application this Act, applies in respect of the scholarship awarded in 1972 and subsequent years.

3. This Act comes into force on the day it receives Royal Commence-
Assent.ment

4. This Act may be cited as *The Osgoode Hall Law School*^{Short title}
Scholarships Amendment Act, 1972.

An Act to amend
The Osgoode Hall Law School
Scholarships Act, 1968-69

1st Reading

May 11th, 1972

2nd Reading

June 13th, 1972

3rd Reading

June 13th, 1972

THE HON. G. A. KERR
Minister of Colleges and Universities

**2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972**

An Act to amend The Sunnybrook Hospital Act, 1966

**THE HON. G. A. KERR
Minister of Colleges and Universities**

EXPLANATORY NOTES

SECTION 1. The amendment reflects the change in the name and constitution of the governing body of the university that is embodied in *The University of Toronto Act, 1971*.

SECTION 2. Provision is made for the Chairman of the Governors and the President of the University of Toronto to appoint alternate members to sit in their stead on the board of trustees of Sunnybrook Hospital.

SECTION 3. The requirement that the chairman of the board of trustees of Sunnybrook Hospital be a member of the governing body of the University of Toronto is removed.

BILL 119

1972

**An Act to amend
The Sunnybrook Hospital Act, 1966**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *b* of section 1 of *The Sunnybrook Hospital Act*, ^{s. 1 (b),} re-enacted 1966, being chapter 150, is repealed and the following substituted therefor:

(b) "Governors" means The Governing Council of the University of Toronto.

2. Clause *a* of subsection 1 of section 3 of the said Act is ^{s. 3 (1) (a),} amended by striking out "the Chairman of the Governors and the President of the University of Toronto" in the first and second lines and inserting in lieu thereof "the Chairman of the Governors, or a person appointed by him, and the President of the University of Toronto, or a person appointed by him".

3. Section 4 of the said Act is repealed and the following ^{s. 4,} re-enacted substituted therefor:

4. One of the trustees shall be appointed by the ^{Chairman} Governors to be Chairman of the Board.

4.—(1) This Act, except section 1, comes into force on the ^{Commence-}ment day it receives Royal Assent.

(2) Section 1 comes into force on the 1st day of July, 1972. ^{Idem}

5. This Act may be cited as *The Sunnybrook Hospital* ^{Short title} *Amendment Act, 1972.*

An Act to amend
The Sunnybrook Hospital Act, 1966

1st Reading

May 11th, 1972

2nd Reading

3rd Reading

THE HON. G. A. KERR
Minister of Colleges and Universities

(Government Bill)

BILL 119

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Sunnybrook Hospital Act, 1966

THE HON. G. A. KERR
Minister of Colleges and Universities

TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER AND PUBLISHER

BILL 119

1972

An Act to amend The Sunnybrook Hospital Act, 1966

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *b* of section 1 of *The Sunnybrook Hospital Act*, ^{s. 1 (b), re-enacted} 1966, being chapter 150, is repealed and the following substituted therefor:

(b) "Governors" means The Governing Council of the University of Toronto.

2. Clause *a* of subsection 1 of section 3 of the said Act is ^{s. 3 (1) (a), amended} amended by striking out "the Chairman of the Governors and the President of the University of Toronto" in the first and second lines and inserting in lieu thereof "the Chairman of the Governors, or a person appointed by him, and the President of the University of Toronto, or a person appointed by him".

3. Section 4 of the said Act is repealed and the following ^{s. 4, re-enacted} substituted therefor:

4. One of the trustees shall be appointed by the ^{Chairman} Governors to be Chairman of the Board.

4.—(1) This Act, except section 1, comes into force on the ^{Commence-} day it receives Royal Assent.
^{ment}

(2) Section 1 comes into force on the 1st day of July, 1972. ^{Idem}

5. This Act may be cited as *The Sunnybrook Hospital* ^{Short title} *Amendment Act, 1972.*

An Act to amend
The Sunnybrook Hospital Act, 1966

1st Reading

May 11th, 1972

2nd Reading

June 13th, 1972

3rd Reading

June 13th, 1972

THE HON. G. A. KERR
Minister of Colleges and Universities

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to amend
The Art Gallery of Ontario Act**

THE HON. G. A. KERR
Minister of Colleges and Universities

EXPLANATORY NOTES

SECTION 1. The amendment provides that the membership of the Gallery shall elect rather than appoint ten persons to the board of trustees of the Gallery.

SECTION 2. The amendment establishes the terms of office of trustees and their eligibility for reappointment and provides staggered terms for the Lieutenant Governor in Council appointees; presently all trustees hold office for a term of one year.

BILL 120 1972

**An Act to amend
The Art Gallery of Ontario Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *b* of subsection 1 of section 4 of *The Art Gallery of Ontario Act*, being chapter 29 of the Revised Statutes of Ontario, 1970, is amended by striking out "appointed" in the first line and inserting in lieu thereof "elected". s. 4 (1) (b),
amended

2.—(1) Subsections 2 and 3 of the said section 4 are repealed s. 4 (2, 3),
re-enacted and the following substituted therefor:

(2) A trustee appointed under clause *a* or *c* or elected Term of
office under clause *b* of subsection 1 shall hold office for a term of one year and until his successor is appointed or elected, as the case may be, and, subject to subsection 3, a trustee appointed under clause *d* of subsection 1 shall hold office for a term of three years and until his successor is appointed.

(3) Of the trustees first appointed under clause *d* of sub- Idem section 1 after the coming into force of this section, three shall hold office for a term of one year, three for a term of two years and four for a term of three years, and each trustee shall hold office until his successor is appointed.

(3a) Where a vacancy occurs for any reason in the office Vacancies of trustee, the vacancy may be filled by appointment by the body that appointed or elected the trustee whose office is vacant, and a person so appointed shall hold office for the remainder of the term of his predecessor.

(3b) A trustee appointed or elected under subsection 1 is Eligibility
for re-
election or
reappoint-
ment eligible for reappointment or re-election, as the case may be, but no trustee appointed under clause *d* of

subsection 1 is eligible for reappointment on the expiration of his second consecutive term until at least one year has elapsed from the expiration of such term.

Term of
office of
present
trustees

(2) A trustee holding office on the day upon which this section comes into force continues in office for the remainder of the term for which he was appointed, and for the purposes of subsection 3*b* of section 4, a trustee who holds office on the day that this section comes into force shall be deemed to have taken office for the first time at the date of his first reappointment to office after the termination of the term of office that he holds on the day this section comes into force.

s. 5 (a),
amended

3.—(1) Clause *a* of section 5 of the said Act is amended by adding thereto the following subclause:

(iv) governing the election of trustees to the Board by the membership of the Gallery under clause *b* of subsection 1 of section 4.

s. 5 (c),
re-enacted

(2) Clause *c* of the said section 5 is repealed and the following substituted therefor:

(c) appoint, promote, transfer or remove such officers, clerks and servants as it considers necessary from time to time for the proper conduct of the affairs of the Gallery and may delegate all or a part of the authority for so doing to the Director.

s. 5 (h),
amended

(3) Clause *h* of the said section 5 is amended by striking out "having objects similar to those of the Gallery" in the second line and inserting in lieu thereof "to promote the objects of the Gallery".

s. 6,
re-enacted

4. Section 6 of the said Act is repealed and the following substituted therefor:

Fiscal
year

6. The fiscal year of the Gallery commencing the 1st day of July, 1972, shall end the 31st day of March, 1973 and thereafter the fiscal year of the Gallery shall extend from the 1st day of April of any year to the 31st day of March of the year next following.

s. 8a,
enacted

5. The said Act is amended by adding thereto the following section:

Conflict
R.S.O. 1970,
c. 89

8a. In the event of a conflict between any provision of this Act and any provision of *The Corporations Act*, the provision of this Act prevails.

SECTION 3. The regulation-making power of the Board is enlarged and clarified.

SECTION 4. The present fiscal year of the Art Gallery runs from July 1st to June 30th of the following year.

SECTION 5. Self-explanatory.

SECTION 6. The Art Gallery is now exempt from every form of provincial and municipal taxation; in future, the exemption will be limited to municipal and school taxes.

SECTION 7. The re-enacted section will require the auditors appointed by the Board to be licensed under *The Public Accountancy Act*.

SECTION 8. The Board's annual report will be submitted to the Minister and tabled.

SECTION 9. The section added authorizes the conveyance by the Art Gallery to the City of Toronto of certain lands for a future twenty-one foot widening of Dundas Street and an eight foot widening of Beverley Street; under the terms of the bequest to the Art Gallery of its lands, any conveyance or alienation is prohibited.

6. Section 9 of the said Act is repealed and the following <sup>s. 9,
re-enacted</sup> substituted therefor:

9. The real and personal property vested in the Gallery <sup>Tax
exemption</sup> and any lands and premises leased to and occupied by the Gallery are not liable to taxation for municipal or school purposes so long as they are actually used and occupied for the purposes of the Gallery.

7. Section 14 of the said Act is repealed and the following <sup>s. 14,
re-enacted</sup> substituted therefor:

14. The Board shall appoint one or more auditors <sup>Auditors
R.S.O. 1970,
c. 373</sup> licensed under *The Public Accountancy Act* to audit the accounts and transactions of the Gallery at least once a year.

8. Section 15 of the said Act is repealed and the following <sup>s. 15,
re-enacted</sup> substituted therefor:

- 15.—(1) The Board shall submit to the Minister of Colleges <sup>Annual
report, etc.</sup> and Universities an annual report and such other reports as he may request from time to time.

- (2) The Minister of Colleges and Universities shall sub- ^{Tabling}mit the annual report to the Lieutenant Governor in Council and shall then lay such report before the Assembly if it is in session or, if not, at the next ensuing session.

9. The said Act is amended by adding thereto the following <sup>s. 17,
enacted</sup> section:

17. Notwithstanding section 16 and the condition <sup>Conveyance
of lands to
Toronto
authorized</sup> attached to a deed dated the 17th day of February, 1911, registered in the Registry Office for the Registry Division of Toronto as No. 23798S between Goldwin Larratt Smith, of the City of Toronto, Solicitor, surviving Executor and Trustee of the Last Will and Testament of Harriette Elizabeth Mann Smith, deceased, and James Frederick Smith and the said Goldwin Larratt Smith, of the same place, Solicitors, Executors and Trustees of the Last Will and Testament of Goldwin Smith, deceased, and the Art Museum of Toronto, the Gallery may convey, release, quit claim or otherwise dispose of to The Corporation of the City of Toronto the lands set forth in the Schedule.

Commence- ment	10. —(1) This Act, except section 4, comes into force on the day it receives Royal Assent.
Idem	(2) Section 4 comes into force on the 1st day of July, 1972.
Short title	11. This Act may be cited as <i>The Art Gallery of Ontario Amendment Act, 1972</i> .

SCHEDULE

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Toronto, in the Municipality of Metropolitan Toronto (formerly in the County of York) and Province of Ontario being composed of:

Firstly: Part of Park Lot 13 in the First Concession from the Bay, in the original Township of York but now in the said City of Toronto, the said parcel of land being designated as Part 7 on a plan of survey deposited in the Registry Office for the Registry Division of Toronto as 63R-357.

Secondly: Part of Park Lots 13 and 14 in the First Concession from the Bay, in the original Township of York but now in the said City of Toronto, the said parcels of land being designated as Parts 13 and 14 on said plan of survey deposited in the Registry Office for the Registry Division of Toronto as 63R-357.

An Act to amend
The Art Gallery of Ontario Act

1st Reading

May 11th, 1972

2nd Reading

3rd Reading

THE HON. G. A. KERR
Minister of Colleges and Universities

(Government Bill)

BILL 120

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Art Gallery of Ontario Act

THE HON. G. A. KERR
Minister of Colleges and Universities

BILL 120

1972

An Act to amend The Art Gallery of Ontario Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *b* of subsection 1 of section 4 of *The Art Gallery of Ontario Act*, being chapter 29 of the Revised Statutes of Ontario, 1970, is amended by striking out "appointed" in the first line and inserting in lieu thereof "elected". ^{s. 4 (1) (b), amended}

2.—(1) Subsections 2 and 3 of the said section 4 are repealed ^{s. 4 (2, 3), re-enacted} and the following substituted therefor:

- (2) A trustee appointed under clause *a* or *c* or elected ^{Term of office} under clause *b* of subsection 1 shall hold office for a term of one year and until his successor is appointed or elected, as the case may be, and, subject to subsection 3, a trustee appointed under clause *d* of subsection 1 shall hold office for a term of three years and until his successor is appointed.
- (3) Of the trustees first appointed under clause *d* of sub- ^{Idem} section 1 after the coming into force of this section, three shall hold office for a term of one year, three for a term of two years and four for a term of three years, and each trustee shall hold office until his successor is appointed.
- (3a) Where a vacancy occurs for any reason in the office ^{Vacancies} of trustee, the vacancy may be filled by appointment by the body that appointed or elected the trustee whose office is vacant, and a person so appointed shall hold office for the remainder of the term of his predecessor.
- (3b) A trustee appointed or elected under subsection 1 is ^{Eligibility for re-election or reappointment} eligible for reappointment or re-election, as the case may be, but no trustee appointed under clause *d* of

subsection 1 is eligible for reappointment on the expiration of his second consecutive term until at least one year has elapsed from the expiration of such term.

Term of
office of
present
trustees

(2) A trustee holding office on the day upon which this section comes into force continues in office for the remainder of the term for which he was appointed, and for the purposes of subsection 3*b* of section 4, a trustee who holds office on the day that this section comes into force shall be deemed to have taken office for the first time at the date of his first reappointment to office after the termination of the term of office that he holds on the day this section comes into force.

s. 5 (a),
amended

3.—(1) Clause *a* of section 5 of the said Act is amended by adding thereto the following subclause:

(iv) governing the election of trustees to the Board by the membership of the Gallery under clause *b* of subsection 1 of section 4.

s. 5 (c),
re-enacted

(2) Clause *c* of the said section 5 is repealed and the following substituted therefor:

(c) appoint, promote, transfer or remove such officers, clerks and servants as it considers necessary from time to time for the proper conduct of the affairs of the Gallery and may delegate all or a part of the authority for so doing to the Director.

s. 5 (h),
amended

(3) Clause *h* of the said section 5 is amended by striking out "having objects similar to those of the Gallery" in the second line and inserting in lieu thereof "to promote the objects of the Gallery".

s. 6,
re-enacted

4. Section 6 of the said Act is repealed and the following substituted therefor:

Fiscal
year

6. The fiscal year of the Gallery commencing the 1st day of July, 1972, shall end the 31st day of March, 1973 and thereafter the fiscal year of the Gallery shall extend from the 1st day of April of any year to the 31st day of March of the year next following.

s. 8a,
enacted

5. The said Act is amended by adding thereto the following section:

Conflict
R.S.O. 1970,
c. 89

8a. In the event of a conflict between any provision of this Act and any provision of *The Corporations Act*, the provision of this Act prevails.

6. Section 9 of the said Act is repealed and the following ^{s. 9, re-enacted} substituted therefor:

9. The real and personal property vested in the Gallery ^{Tax exemption} and any lands and premises leased to and occupied by the Gallery are not liable to taxation for municipal or school purposes so long as they are actually used and occupied for the purposes of the Gallery.

7. Section 14 of the said Act is repealed and the following ^{s. 14, re-enacted} substituted therefor:

14. The Board shall appoint one or more auditors ^{Auditors R.S.O. 1970, c. 373} licensed under *The Public Accountancy Act* to audit the accounts and transactions of the Gallery at least once a year.

8. Section 15 of the said Act is repealed and the following ^{s. 15, re-enacted} substituted therefor:

15.—(1) The Board shall submit to the Minister of Colleges ^{Annual report, etc.} and Universities an annual report and such other reports as he may request from time to time.

(2) The Minister of Colleges and Universities shall sub-^{Tabling}mit the annual report to the Lieutenant Governor in Council and shall then lay such report before the Assembly if it is in session or, if not, at the next ensuing session.

9. The said Act is amended by adding thereto the following ^{s. 17, enacted} section:

17. Notwithstanding section 16 and the condition ^{Conveyance of lands to Toronto authorized} attached to a deed dated the 17th day of February, 1911, registered in the Registry Office for the Registry Division of Toronto as No. 23798S between Goldwin Larratt Smith, of the City of Toronto, Solicitor, surviving Executor and Trustee of the Last Will and Testament of Harriette Elizabeth Mann Smith, deceased, and James Frederick Smith and the said Goldwin Larratt Smith, of the same place, Solicitors, Executors and Trustees of the Last Will and Testament of Goldwin Smith, deceased, and the Art Museum of Toronto, the Gallery may convey, release, quit claim or otherwise dispose of to The Corporation of the City of Toronto the lands set forth in the Schedule.

Commence- ment	10. —(1) This Act, except section 4, comes into force on the day it receives Royal Assent.
Idem	(2) Section 4 comes into force on the 1st day of July, 1972.
Short title	11. This Act may be cited as <i>The Art Gallery of Ontario Amendment Act, 1972</i> .

SCHEDULE

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Toronto, in the Municipality of Metropolitan Toronto (formerly in the County of York) and Province of Ontario being composed of:

Firstly: Part of Park Lot 13 in the First Concession from the Bay, in the original Township of York but now in the said City of Toronto, the said parcel of land being designated as Part 7 on a plan of survey deposited in the Registry Office for the Registry Division of Toronto as 63R-357.

Secondly: Part of Park Lots 13 and 14 in the First Concession from the Bay, in the original Township of York but now in the said City of Toronto, the said parcels of land being designated as Parts 13 and 14 on said plan of survey deposited in the Registry Office for the Registry Division of Toronto as 63R-357.

An Act to amend
The Art Gallery of Ontario Act

1st Reading

May 11th, 1972

2nd Reading

June 13th, 1972

3rd Reading

June 13th, 1972

THE HON. G. A. KERR
Minister of Colleges and Universities

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to provide for the Control of Eavesdropping

MR. SHULMAN

EXPLANATORY NOTES

The purpose of the Bill is to control wiretapping and all other forms of electronic overhearing of conversations.

Except for periods of time not exceeding forty-eight hours, in cases involving national security or organized crime, no person may engage in "eavesdropping" without a court order.

The Bill provides that a court order may only be granted on the application of the Minister of Justice and Attorney General or a Crown Attorney and specifies the information that must be given to the court on such an application.

BILL 121

1972

An Act to provide for the Control of Eavesdropping

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "eavesdropping" means wiretapping and all other forms of electronic overhearing of conversations and "eavesdrop" has a corresponding meaning; and
- (b) "wiretapping" means the unauthorized use, interference with or connection to any telephone instrument, wiring or equipment for the purpose of acquiring knowledge of any conversation passing over a telephone line.

2. No person shall eavesdrop except under the authority Order
required to
eavesdrop
of an order made under this Act.

3.—(1) The Minister of Justice and Attorney General or a Application
for order
Crown Attorney may apply *ex parte* to a judge of the Supreme Court for an order authorizing eavesdropping.

(2) An order granting authority to eavesdrop shall not be Who may
apply for
order
made except upon the application of the Minister of Justice and Attorney General or a Crown Attorney.

(3) An order under this Act shall not grant authority Affidavit
in support
of applica-
tion
to eavesdrop unless the applicant by affidavit discloses to the judge,

- (a) the applicant's name and official position;
- (b) the name of the person against whom the eavesdropping will be directed;

- (c) the nature and location of the premises against which the eavesdropping will be directed;
- (d) full particulars of the offence under investigation;
- (e) a description of the type of conversation that the applicant seeks to overhear;
- (f) particulars of any other alternative investigative procedures and the reasons for the applicant's belief that such procedures have not or will not be sufficient;
- (g) the period of time during which the applicant believes the eavesdropping is necessary;
- (h) full particulars of all previous applications under this Act with respect to the person or the place set out in clauses *b* and *c* and the order made by the judge on each of the applications; and
- (i) that the applicant believes that the eavesdropping is necessary in the particular circumstances.

Limitation
as to time

(4) An order made under this section shall,

- (a) limit the time during which the eavesdropping is authorized to a period of not more than thirty days; and
- (b) terminate the authority to eavesdrop as soon as the conversation set out in clause *e* of subsection 3 is overheard.

Additional
conversations

(5) Notwithstanding clause *b* of subsection 4, where the judge is satisfied by the information disclosed in the affidavit required by subsection 3 that the applicant has reasonable cause to believe that further conversations of a type similar to that set out in clause *e* of subsection 3 are likely to occur, the order made under this section need not terminate the authority when that conversation is overheard.

Extension
of time

4.—(1) Where an order is made under section 3, an application may be made to a judge of the Supreme Court for a further order extending the authority to eavesdrop for an additional period of not more than thirty days from the date of the expiration of the authority.

Provisions
of s. 3
apply

(2) The provisions of section 3 apply *mutatis mutandis* to an application and an order made under this section.

(3) An order made under this section shall not extend the period of time of the authority to eavesdrop unless the applicant discloses by affidavit to the judge, ^{Additional information by affidavit}

- (a) the information obtained by the exercise of the authority and the progress of the investigation resulting from the information obtained; and
- (b) the reason why the period of time of the authority under the order made under section 3 was not sufficient.

5. On an application under section 4 or section 5, the applicant shall submit by affidavit such additional information as the judge may require. ^{Judge may require additional information}

6.—(1) Where an order is made under section 3 granting authority to eavesdrop, the applicant for the order shall, not later than ninety days after the termination of the authority, serve upon the person named in the application as the person against whom the eavesdropping is directed, notice of the eavesdropping. ^{Notice}

(2) Where the period of time of the authority to eavesdrop is extended by an order made under section 4, the notice required under subsection 1 shall be served not later than ninety days after the termination of the extension of the authority. ^{Idem}

(3) The notice shall set out, ^{Particulars of notice}

- (a) the name of the person against whom the eavesdropping was directed;
- (b) the location of the premises against which the eavesdropping was directed;
- (c) the dates on which the eavesdropping occurred; and
- (d) the authority under which the eavesdropping occurred.

(4) The notice required by this section shall be in writing and shall be served personally or by registered mail addressed to the person at his residence or place of business and if served by registered mail it shall be deemed to be served on the third day after it is mailed. ^{Service of notice}

(5) A judge of the Supreme Court may make an order dispensing with the service of the notice required by this section where on an application to the judge the applicant ^{Dispensing with notice}

discloses by affidavit facts that establish good cause for dispensing with service of the notice.

Recording
to be made
available
to judge

7. Upon the expiration of the authority to eavesdrop granted under an order made under section 3 or section 4, as the case may be, the applicant for the order shall forthwith make available to the judge who made the order a copy of the recording of every conversation recorded during the eavesdropping.

Nature of
offence

R.S.C. 1970,
c. C-34

8. An order made under this Act shall not grant authority to eavesdrop unless the offence under investigation is one that is an indictable offence within the meaning of the *Criminal Code* (Canada) or is an offence that under the law of Canada or Ontario is punishable by imprisonment for more than one year.

Exception
in the case
of national
security or
organized
crime

9. Notwithstanding any other provision of this Act, where the offence under investigation is likely to endanger the safety, security or defence of Canada or involves the activities of persons organized for criminal purposes, eavesdropping may be directed against any person or place for a period of not more than forty-eight hours without the authority of an order under this Act.

Offence

10. Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than two years, or to both.

Commence-
ment

11. This Act comes into force on the day it receives Royal Assent.

Short title

12. This Act may be cited as *The Control of Eavesdropping Act, 1972*.

An Act to provide for
the Control of Eavesdropping

1st Reading

May 11th, 1972

2nd Reading

3rd Reading

MR. SHULMAN

(Private Member's Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to relieve Persons from
Liability in respect of Voluntary
Emergency Medical and First Aid Services**

MR. HAGGERTY

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

EXPLANATORY NOTE

The purpose of this Bill is to relieve persons from liability in respect of voluntary emergency first aid assistance or medical services rendered at or near the scene of an accident or other sudden emergency.

BILL 122

1972

An Act to relieve Persons from Liability in respect of Voluntary Emergency Medical and First Aid Services

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "physician" means a legally qualified medical practitioner;
- (b) "registered nurse" means a person who is registered as a nurse under *The Nurses Act*.

R.S.O. 1970,
c. 301

2. Where, in respect of a person who is ill, injured or unconscious as the result of an accident or other sudden emergency,

Relief from
liability for
damages

- (a) a physician or registered nurse voluntarily and without expectation of compensation or reward renders emergency medical services or first aid assistance and such services or assistance are not rendered at a hospital or other place having adequate medical facilities and equipment; or
- (b) a person other than a person mentioned in clause *a* voluntarily renders emergency first aid assistance and such assistance is rendered at the immediate scene of the accident or emergency,

the physician, registered nurse or other person shall not be liable for damages for injuries to or the death of such person alleged to have been caused by an act or omission on his part in rendering the medical services or first aid assistance, unless such acts constitute wilful or wanton misconduct on his part.

3. Nothing in section 2 shall be deemed to relieve a physician from liability for damages for injuries to or the death of any

Act does
not apply
to normal
medical
services

person caused by an act or omission on the part of the physician in respect of medical services rendered by him in the normal and ordinary course of his practice and not under the circumstances set forth in section 2.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. This Act may be cited as *The Good Samaritan Act, 1972*.



An Act to relieve Persons from Liability in
respect of Voluntary Emergency Medical
and First Aid Services

1st Reading

May 11th, 1972

2nd Reading

3rd Reading

MR. HAGGERTY

(Private Member's Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to amend
The Ophthalmic Dispensers Act**

MR. SHULMAN

THE UNIVERSITY OF CHICAGO
 LIBRARY

EXPLANATORY NOTE

Self-explanatory.

THE UNIVERSITY OF CHICAGO

LIBRARY

BILL 123

1972

An Act to amend The Ophthalmic Dispensers Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Ophthalmic Dispensers Act*, being chapter 334 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

21a. Notwithstanding the other provisions of this Act or any other general or special Act, no person shall offer for sale or sell spectacles or eyeglasses having frames made of cellulose nitrate.

2. This Act comes into force on the day it receives Royal Assent.

3. This Act may be cited as *The Ophthalmic Dispensers Amendment Act, 1972*.

An Act to amend
The Ophthalmic Dispensers Act

1st Reading

May 12th, 1972

2nd Reading

3rd Reading

MR SHULMAN

(Private Member's Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Ministry of Education Act

THE HON. T. L. WELLS
Minister of Education

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

EXPLANATORY NOTES

SECTION 1. The amendment is to include in the definition of a "private school" a school in which pupils may all be over the compulsory school age so that the provisions regarding registration and inspection will apply to such a school.

SECTION 2. The amendment provides statutory reference to the circulars published by the Minister which contain the lists of approved text-books, reference books and library books.

SECTION 3.—Subsection 1. This amendment is for the purpose of clarification.

Subsection 2. This amendment empowers the Minister to permit a board to appoint or assign to teach a subject or to hold a position a teacher who does not hold the additional certificate required for teaching the subject or for holding the position.

Subsection 3. The amendments permit the Minister,

1. to appoint advisory or consultative committees;
2. to provide for the development and supervision of correspondence courses;
3. to provide equalization factors which were formerly provided by the Department of Municipal Affairs.

An Act to amend The Ministry of Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *d* of section 1 of *The Ministry of Education Act*, ^{s. 1 (d), amended} being chapter 111 of the Revised Statutes of Ontario, 1970, is amended by striking out "of compulsory school age, whether or not instruction is also provided for pupils of other ages" in the fourth and fifth lines.

2. Subsection 2 of section 9 of the said Act is amended by ^{s. 9 (2), amended} adding thereto the following clause:

(ba) cause to be published from time to time lists of text-books, reference books and library books, selected and approved by the Minister pursuant to the regulations, for use in elementary and secondary schools.

3.—(1) Clause *b* of subsection 1 of section 10 of the said ^{s. 10 (1) (b), amended} Act is amended by striking out "evidence of" in the fourth line and by adding at the end thereof "and may require such evidence thereof as he considers necessary".

(2) Subsection 1 of the said section 10 is amended by adding ^{s. 10 (1), amended} thereto the following clause:

(da) grant to a board a temporary letter of approval ^{letter of approval} authorizing the board to appoint or assign, for a period not exceeding one year, a teacher to teach a subject or hold a position where the teacher does not hold the additional certificate required for teaching the subject or for holding the position.

(3) Subsection 1 of the said section 10 is further amended by ^{s. 10 (1), amended} adding thereto the following clauses:

advisory
body

- (m) appoint such advisory or consultative bodies as may be considered necessary by the Minister from time to time;

corre-
spondence
courses

- (n) provide for the development, distribution and supervision by the Ministry of correspondence courses;

equalization
factor

- (o) provide an assessment equalization factor,

(i) for each municipality, including, for public and secondary school purposes, any part of territory without municipal organization that is deemed to be attached thereto for such purposes and, for public school purposes, any part of territory without municipal organization that is deemed to be annexed thereto for public school purposes,

(ii) for each part of territory without municipal organization that is deemed to be a district municipality for the purposes of Part IV of *The Secondary Schools and Boards of Education Act*,

R.S.O. 1970,
c. 425

(iii) for each part of territory without municipal organization that is deemed to be a district municipality for the purposes of Part III of *The Separate Schools Act*,

R.S.O. 1970,
c. 430

(iv) for each public school section that comprises only territory without municipal organization, and

(v) for each separate school zone that comprises only territory without municipal organization,

and determine the assessment roll to which each such factor applies and, where such factors are provided, shall provide for publication thereof in *The Ontario Gazette*.

s. 12 (1),
amended

4.—(1) Subsection 1 of section 12 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 89, section 3, subsections 1 and 2, is further amended by adding thereto the following paragraphs:

recreation
programs

8a. defining and governing programs of recreation, camping, physical education and adult education;

.

SECTION 4.—Subsection 1. Paragraph 8*a* is added to this subsection because of the repeal of subsection 4 and the transfer of community programs to the Ministry of Community and Social Services.

Paragraph 9*a* provides for the making of regulations governing the granting of letters of permission.

Subsection 2. The amendment authorizes the fees for duplicates of diplomas and certificates of standing to be prescribed by regulation.

Subsection 3. The amendment provides for the making of regulations in respect of pupil records and in respect of the disposition of the existing records established before such regulations come into force.

Subsection 4. The amendment makes it clear that the power given under this subsection is not subject to the provisions of any other Act.

Subsection 5. The clause is re-enacted to permit regulations to be made for the purpose of legislative grants to prescribe definitions and to provide for the application of such grants.

Subsection 6. The new subsection 4 is to provide that regulations in respect of grants may be made to apply to a previous year.

- 9a. governing the granting to a board of a letter of per-^{letter of}
mission and a temporary letter of approval. ^{permission}

(2) Paragraph 19 of subsection 1 of the said section 12 is ^{s. 12 (1),}
amended by adding at the end thereof "and prescribing the ^{par. 19,}
fees to be paid for duplicates thereof". ^{amended}

(3) Subsection 1 of the said section 12 is further amended by ^{s. 12 (1),}
adding thereto the following paragraphs: ^{amended}

- 33a. prescribing the manner in which records in respect ^{pupil}
of pupils of elementary and secondary schools shall be ^{records}
established and maintained, including the forms to be
used therefor and the type of information that shall
be kept and recorded, and providing for the retention,
transfer and disposal of such records;

- 33b. providing for the disposition of records established ^{distribution}
prior to the 1st day of September, 1972 in respect of ^{of present}
pupils. ^{pupil records}

(4) Subsection 3 of the said section 12 is amended by ^{s. 12 (3),}
striking out "to the provisions of any statute in that behalf ^{amended}
and" in the first line.

(5) Clause *c* of subsection 3 of the said section 12 is repealed ^{s. 12 (3) (c),}
and the following substituted therefor: ^{re-enacted}

- (c) for the purposes of legislative grants,
- (i) defining any word or expression,
 - (ii) requiring the approval of the Minister to any
amount of money or rate determined by the
application of any word or expression defined,
 - (iii) prescribing the portions of any expenditure
to which such grants apply, and
 - (iv) respecting the application of any part of such
grants.

(6) The said section 12, as amended by the Statutes of ^{s. 12,}
Ontario, 1971, chapter 89, section 3, subsections 1 and 2, ^{amended}
and the Statutes of Ontario, 1972, chapter 1, section 61,
subsections 5 and 6, is further amended by adding thereto the
following subsection:

- (4) A regulation made in any year under clause *a*, *b* or *c* ^{Application}
of subsection 3 may be made to apply in its operation ^{to previous}
to a previous year.

s. 12,
amended

(7) The said section 12 is further amended by adding thereto the following subsection:

Metropolitan
Toronto
School
Board

(5) A regulation made under this section may be made to apply to The Metropolitan Toronto School Board.

s. 14,
repealed

5. Section 14 of the said Act is repealed.

s. 17,
re-enacted;
s. 18,
repealed

6. Sections 17 and 18 of the said Act are repealed and the following substituted therefor:

Teacher
education

17.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may,

(a) establish, maintain and conduct a college for the professional education of teachers and may enter into arrangements with a board for the use of any of its elementary or secondary schools for practice teaching purposes and for the services of teachers in any of its elementary or secondary schools as lecturers or instructors in the college;

(b) enter into an agreement with a university, a college of a university or a college to provide for the professional education of teachers by the university or college, upon such terms and conditions as the Minister and the university or college may agree upon.

Agreements
re practice
teaching,
etc.

(2) Where a university, a college of a university or a college has entered into an agreement with the Minister under clause *b* of subsection 1, a board may permit one or more of its elementary or secondary schools to be used for practice teaching purposes and may provide for the services of any of its teachers as lecturers or instructors in such university or college under such terms and conditions as may be agreed upon between the board and the university or college.

Cost of
teacher
education

(3) The cost of the establishment, maintenance and conduct of a college referred to in clause *a* of subsection 1 shall be payable out of moneys appropriated therefor by the Legislature.

Idem

(4) The cost of providing the professional education of teachers by a university, a college of a university or a college under an agreement referred to in clause *b* of subsection 1 shall be payable out of moneys appropriated therefor by the Legislature.

Subsection 7. The new subsection 5 makes it clear that a regulation may be made to apply to The Metropolitan Toronto School Board.

SECTION 5. This section is no longer required as the provincial technical institutes and the provincial polytechnical institutes have all been incorporated with colleges of applied arts and technology.

SECTION 6. This amendment is to permit the provision of professional education of both elementary and secondary school teachers under an agreement with a college of a university or a college, as well as under an agreement with a university, and to provide that the cost of the professional education of teachers under such an agreement be payable out of moneys appropriated for university purposes.

SECTION 7. The amendment provides for the inspection of private schools in respect of the secondary school honour graduation diploma as well as for the secondary school graduation diploma.

7. Subsection 7 of section 20 of the said Act is repealed and ^{s. 20 (7),} the following substituted therefor: ^{re-enacted}

- (7) The Minister may, on the request of any person ^{Inspection} operating a private school, provide for inspection ^{on request} of the school in respect of the standard of instruction in the subjects of grades 11 and 12 leading to the secondary school graduation diploma and in the subjects of grade 13 leading to the secondary school honour graduation diploma, and may determine and charge a fee for such inspection.

8.—(1) This Act, except subsection 3 of section 3 and ^{Commence-} subsections 4 and 7 of section 4, comes into force on the ^{ment} day it receives Royal Assent.

(2) Subsection 3 of section 3 and subsections 4 and 7 of ^{Idem} section 4 shall be deemed to have come into force on the 1st day of January, 1972.

9. This Act may be cited as *The Ministry of Education* ^{Short title} *Amendment Act, 1972.*

An Act to amend
The Ministry of Education Act

1st Reading

May 15th, 1972

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Education

(Government Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Ministry of Education Act

THE HON. T. L. WELLS
Minister of Education

(Reprinted as amended by the Social Development Committee)

EXPLANATORY NOTES

SECTION 1. The amendment is to include in the definition of a "private school" a school in which pupils may all be over the compulsory school age so that the provisions regarding registration and inspection will apply to such a school.

SECTION 2. The amendment provides statutory reference to the circulars published by the Minister which contain the lists of approved text-books, reference books and library books.

SECTION 3.—Subsection 1. This amendment is for the purpose of clarification.

Subsection 2. This amendment empowers the Minister to permit a board to appoint or assign to teach a subject or to hold a position a teacher who does not hold the additional certificate required for teaching the subject or for holding the position.

Subsection 3. The amendments permit the Minister,

1. to appoint advisory or consultative committees;
2. to provide for the development and supervision of correspondence courses;
3. to provide equalization factors which were formerly provided by the Department of Municipal Affairs.

An Act to amend The Ministry of Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *d* of section 1 of *The Ministry of Education Act*, ^{s. 1 (d), amended} being chapter 111 of the Revised Statutes of Ontario, 1970, is amended by striking out "of compulsory school age, whether or not instruction is also provided for pupils of other ages" in the fourth and fifth lines.

2. Subsection 2 of section 9 of the said Act is amended by ^{s. 9 (2), amended} adding thereto the following clause:

(*ba*) cause to be published from time to time lists of text-books, reference books and library books, selected and approved by the Minister pursuant to the regulations, for use in elementary and secondary schools.

3.—(1) Clause *b* of subsection 1 of section 10 of the said ^{s. 10 (1) (b), amended} Act is amended by striking out "evidence of" in the fourth line and by adding at the end thereof "and may require such evidence thereof as he considers necessary".

(2) Subsection 1 of the said section 10 is amended by adding ^{s. 10 (1), amended} thereto the following clause:

(*da*) grant to a board a temporary letter of approval ^{letter of approval} authorizing the board to appoint or assign, for a period not exceeding one year, a teacher to teach a subject or hold a position where the teacher does not hold the additional certificate required for teaching the subject or for holding the position.

(3) Subsection 1 of the said section 10 is further amended by ^{s. 10 (1), amended} adding thereto the following clauses:

advisory
body

- (m) appoint such advisory or consultative bodies as may be considered necessary by the Minister from time to time;

corre-
spondence
courses

- (n) provide for the development, distribution and supervision by the Ministry of correspondence courses;

equalization
factor

- (o) provide an assessment equalization factor,

- (i) for each municipality, including, for public and secondary school purposes, any part of territory without municipal organization that is deemed to be attached thereto for such purposes and, for public school purposes, any part of territory without municipal organization that is deemed to be annexed thereto for public school purposes,

- (ii) for each part of territory without municipal organization that is deemed to be a district municipality for the purposes of Part IV of *The Secondary Schools and Boards of Education Act*,

R.S.O. 1970,
c. 425

- (iii) for each part of territory without municipal organization that is deemed to be a district municipality for the purposes of Part III of *The Separate Schools Act*,

R.S.O. 1970,
c. 430

- (iv) for each public school section that comprises only territory without municipal organization, and

- (v) for each separate school zone that comprises only territory without municipal organization,

and determine the assessment roll to which each such factor applies and, where such factors are provided, shall provide for publication thereof in *The Ontario Gazette*.

s. 12 (1),
amended

4.—(1) Subsection 1 of section 12 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 89, section 3, subsections 1 and 2, is further amended by adding thereto the following paragraphs:

recreation
programs

- 8a. defining and governing programs of recreation, camping, physical education and adult education;

.

SECTION 4.—Subsection 1. Paragraph 8*a* is added to this subsection because of the repeal of subsection 4 and the transfer of community programs to the Ministry of Community and Social Services.

Paragraph 9*a* provides for the making of regulations governing the granting of letters of permission.

Subsection 2. The amendment authorizes the fees for duplicates of diplomas and certificates of standing to be prescribed by regulation.

Subsection 3. The amendment provides for the making of regulations in respect of pupil records and in respect of the disposition of the existing records established before such regulations come into force and prescribing fees for duplicates of certificates of qualification.

Subsection 4. The clause is re-enacted to permit regulations to be made for the purpose of legislative grants to prescribe definitions and to provide for the application of such grants.

Subsection 5. The new subsection 4 is to provide that regulations in respect of grants may be made to apply to a previous year.

9a. governing the granting to a board of a letter of per-^{letter of}
mission and a temporary letter of approval. ^{permission}

(2) Paragraph 19 of subsection 1 of the said section 12 is ^{s. 12 (1),}
amended by adding at the end thereof "and prescribing the ^{par. 19,}
fees to be paid for duplicates thereof". ^{amended}

(3) Subsection 1 of the said section 12 is further amended by ^{s. 12 (1),}
adding thereto the following paragraphs: ^{amended}

33a. prescribing the manner in which records in respect ^{pupil}
of pupils of elementary and secondary schools shall be ^{records}
established and maintained, including the forms to be
used therefor and the type of information that shall
be kept and recorded, and providing for the retention,
transfer and disposal of such records;

33b. providing for the disposition of records established ^{distribution}
prior to the 1st day of September, 1972 in respect of ^{of present}
pupils. ^{pupil records}

36a. prescribing the fees to be paid for duplicates of ^{fees}
certificates of qualification and letters of standing.

(4) Clause *c* of subsection 3 of the said section 12 is repealed ^{s. 12 (3) (c),}
and the following substituted therefor: ^{re-enacted}

(c) for the purposes of legislative grants,

(i) defining any word or expression,

(ii) requiring the approval of the Minister to any
amount of money or rate determined by the
application of any word or expression defined,

(iii) prescribing the portions of any expenditure
to which such grants apply, and

(iv) respecting the application of any part of such
grants.

(5) The said section 12, as amended by the Statutes of ^{s. 12,}
Ontario, 1971, chapter 89, section 3, subsections 1 and 2, ^{amended}
and the Statutes of Ontario, 1972, chapter 1, section 61,
subsections 5 and 6, is further amended by adding thereto the
following subsection:

(4) A regulation made in any year under clause *a*, *b* or *c* ^{Application}
of subsection 3 may be made to apply in its operation ^{to previous}
to a previous year. ^{year}

s. 12,
amended

(6) The said section 12 is further amended by adding thereto the following subsection:

Metropolitan
Toronto
School
Board

(5) A regulation made under this section may be made to apply to The Metropolitan Toronto School Board.

s. 14,
repealed

5. Section 14 of the said Act is repealed.

s. 17,
re-enacted;
s. 18,
repealed

6. Sections 17 and 18 of the said Act are repealed and the following substituted therefor:

Teacher
education

17.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may,

(a) establish, maintain and conduct a college for the professional education of teachers and may enter into arrangements with a board for the use of any of its elementary or secondary schools for practice teaching purposes and for the services of teachers in any of its elementary or secondary schools as lecturers or instructors in the college;

(b) enter into an agreement with a university, a college of a university or a college to provide for the professional education of teachers by the university or college, upon such terms and conditions as the Minister and the university or college may agree upon.

Agreements
re practice
teaching,
etc.

(2) Where a university, a college of a university or a college has entered into an agreement with the Minister under clause *b* of subsection 1, a board may permit one or more of its elementary or secondary schools to be used for practice teaching purposes and may provide for the services of any of its teachers as lecturers or instructors in such university or college under such terms and conditions as may be agreed upon between the board and the university or college.

Cost of
teacher
education

(3) The cost of the establishment, maintenance and conduct of a college referred to in clause *a* of subsection 1 shall be payable out of moneys appropriated therefor by the Legislature.

Idem

(4) The cost of providing the professional education of teachers by a university, a college of a university or a college under an agreement referred to in clause *b* of subsection 1 shall be payable out of moneys appropriated therefor by the Legislature.

Subsection 6. The new subsection 5 makes it clear that a regulation may be made to apply to The Metropolitan Toronto School Board.

SECTION 5. This section is no longer required as the provincial technical institutes and the provincial polytechnical institutes have all been incorporated with colleges of applied arts and technology.

SECTION 6. This amendment is to permit the provision of professional education of both elementary and secondary school teachers under an agreement with a college of a university or a college, as well as under an agreement with a university, and to provide that the cost of the professional education of teachers under such an agreement be payable out of moneys appropriated for university purposes.

SECTION 7. The amendment provides for the inspection of private schools in respect of the secondary school honour graduation diploma as well as for the secondary school graduation diploma.

7. Subsection 7 of section 20 of the said Act is repealed and <sup>s. 20 (7),
re-enacted</sup> the following substituted therefor:

(7) The Minister may, on the request of any person <sup>Inspection
on request</sup> operating a private school, provide for inspection of the school in respect of the standard of instruction in the subjects of grades 11 and 12 leading to the secondary school graduation diploma and in the subjects of grade 13 leading to the secondary school honour graduation diploma, and may determine and charge a fee for such inspection.

8.—(1) This Act, except subsection 3 of section 3 and <sup>Commence-
ment</sup> subsection 6 of section 4, comes into force on the day it receives Royal Assent.

(2) Subsection 3 of section 3 and subsection 6 of section 4 shall ^{Idem} be deemed to have come into force on the 1st day of January, 1972.

9. This Act may be cited as *The Ministry of Education* ^{Short title} *Amendment Act, 1972*.

An Act to amend
The Ministry of Education Act

1st Reading

May 15th, 1972

2nd Reading

May 25th, 1972

3rd Reading

THE HON. T. L. WELLS
Minister of Education

(Reprinted as amended by the
Social Development Committee)

BILL 124

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Ministry of Education Act

THE HON. T. L. WELLS
Minister of Education

TORONTO

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BILL 124

1972

An Act to amend The Ministry of Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *d* of section 1 of *The Ministry of Education Act*, ^{s. 1 (d), amended} being chapter 111 of the Revised Statutes of Ontario, 1970, is amended by striking out "of compulsory school age, whether or not instruction is also provided for pupils of other ages" in the fourth and fifth lines.

2. Subsection 2 of section 9 of the said Act is amended by ^{s. 9 (2), amended} adding thereto the following clause:

(*ba*) cause to be published from time to time lists of text-books, reference books and library books, selected and approved by the Minister pursuant to the regulations, for use in elementary and secondary schools.

3.—(1) Clause *b* of subsection 1 of section 10 of the said ^{s. 10 (1) (b), amended} Act is amended by striking out "evidence of" in the fourth line and by adding at the end thereof "and may require such evidence thereof as he considers necessary".

(2) Subsection 1 of the said section 10 is amended by adding ^{s. 10 (1), amended} thereto the following clause:

(*da*) grant to a board a temporary letter of approval ^{letter of approval} authorizing the board to appoint or assign, for a period not exceeding one year, a teacher to teach a subject or hold a position where the teacher does not hold the additional certificate required for teaching the subject or for holding the position.

(3) Subsection 1 of the said section 10 is further amended by ^{s. 10 (1), amended} adding thereto the following clauses:

- advisory body (m) appoint such advisory or consultative bodies as may be considered necessary by the Minister from time to time;
- correspondence courses (n) provide for the development, distribution and supervision by the Ministry of correspondence courses;
- equalization factor (o) provide an assessment equalization factor,
- (i) for each municipality, including, for public and secondary school purposes, any part of territory without municipal organization that is deemed to be attached thereto for such purposes and, for public school purposes, any part of territory without municipal organization that is deemed to be annexed thereto for public school purposes,
 - (ii) for each part of territory without municipal organization that is deemed to be a district municipality for the purposes of Part IV of *The Secondary Schools and Boards of Education Act*,
 - (iii) for each part of territory without municipal organization that is deemed to be a district municipality for the purposes of Part III of *The Separate Schools Act*,
 - (iv) for each public school section that comprises only territory without municipal organization, and
 - (v) for each separate school zone that comprises only territory without municipal organization,
- and determine the assessment roll to which each such factor applies and, where such factors are provided, shall provide for publication thereof in *The Ontario Gazette*.
- s. 12 (1), amended 4.—(1) Subsection 1 of section 12 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 89, section 3, subsections 1 and 2, is further amended by adding thereto the following paragraphs:
- recreation programs 8a. defining and governing programs of recreation, camping, physical education and adult education;

9a. governing the granting to a board of a letter of per-^{letter of}
mission and a temporary letter of approval. ^{permission}

(2) Paragraph 19 of subsection 1 of the said section 12 is ^{s. 12 (1),}
amended by adding at the end thereof "and prescribing the ^{par. 19,}
fees to be paid for duplicates thereof". ^{amended}

(3) Subsection 1 of the said section 12 is further amended by ^{s. 12 (1),}
adding thereto the following paragraphs: ^{amended}

33a. prescribing the manner in which records in respect ^{pupil}
of pupils of elementary and secondary schools shall be ^{records}
established and maintained, including the forms to be
used therefor and the type of information that shall
be kept and recorded, and providing for the retention,
transfer and disposal of such records;

33b. providing for the disposition of records established ^{distribution}
prior to the 1st day of September, 1972 in respect of ^{of present}
pupils. ^{pupil records}

36a. prescribing the fees to be paid for duplicates of ^{fees}
certificates of qualification and letters of standing.

(4) Clause *c* of subsection 3 of the said section 12 is repealed ^{s. 12 (3) (c),}
and the following substituted therefor: ^{re-enacted}

(c) for the purposes of legislative grants,

(i) defining any word or expression,

(ii) requiring the approval of the Minister to any
amount of money or rate determined by the
application of any word or expression defined,

(iii) prescribing the portions of any expenditure
to which such grants apply, and

(iv) respecting the application of any part of such
grants.

(5) The said section 12, as amended by the Statutes of ^{s. 12,}
Ontario, 1971, chapter 89, section 3, subsections 1 and 2, ^{amended}
and the Statutes of Ontario, 1972, chapter 1, section 61,
subsections 5 and 6, is further amended by adding thereto the
following subsection:

(4) A regulation made in any year under clause *a*, *b* or *c* ^{Application}
of subsection 3 may be made to apply in its operation ^{to previous}
to a previous year. ^{year}

s. 12,
amended

(6) The said section 12 is further amended by adding thereto the following subsection:

Metropolitan
Toronto
School
Board

(5) A regulation made under this section may be made to apply to The Metropolitan Toronto School Board.

s. 14,
repealed

5. Section 14 of the said Act is repealed.

s. 17,
re-enacted;
s. 18,
repealed

6. Sections 17 and 18 of the said Act are repealed and the following substituted therefor:

Teacher
education

17.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may,

(a) establish, maintain and conduct a college for the professional education of teachers and may enter into arrangements with a board for the use of any of its elementary or secondary schools for practice teaching purposes and for the services of teachers in any of its elementary or secondary schools as lecturers or instructors in the college;

(b) enter into an agreement with a university, a college of a university or a college to provide for the professional education of teachers by the university or college, upon such terms and conditions as the Minister and the university or college may agree upon.

Agreements
re practice
teaching,
etc.

(2) Where a university, a college of a university or a college has entered into an agreement with the Minister under clause *b* of subsection 1, a board may permit one or more of its elementary or secondary schools to be used for practice teaching purposes and may provide for the services of any of its teachers as lecturers or instructors in such university or college under such terms and conditions as may be agreed upon between the board and the university or college.

Cost of
teacher
education

(3) The cost of the establishment, maintenance and conduct of a college referred to in clause *a* of subsection 1 shall be payable out of moneys appropriated therefor by the Legislature.

Idem

(4) The cost of providing the professional education of teachers by a university, a college of a university or a college under an agreement referred to in clause *b* of subsection 1 shall be payable out of moneys appropriated therefor by the Legislature.

7. Subsection 7 of section 20 of the said Act is repealed and <sup>s. 20 (7),
re-enacted</sup> the following substituted therefor:

- (7) The Minister may, on the request of any person <sup>Inspection
on request</sup> operating a private school, provide for inspection of the school in respect of the standard of instruction in the subjects of grades 11 and 12 leading to the secondary school graduation diploma and in the subjects of grade 13 leading to the secondary school honour graduation diploma, and may determine and charge a fee for such inspection.

8.—(1) This Act, except subsection 3 of section 3 and <sup>Commence-
ment</sup> subsection 6 of section 4, comes into force on the day it receives Royal Assent.

(2) Subsection 3 of section 3 and subsection 6 of section 4 shall ^{Idem} be deemed to have come into force on the 1st day of January, 1972.

9. This Act may be cited as *The Ministry of Education* ^{Short title} *Amendment Act, 1972.*

An Act to amend
The Ministry of Education Act

1st Reading

May 15th, 1972

2nd Reading

May 25th, 1972

3rd Reading

June 21st, 1972

THE HON. T. L. WELLS
Minister of Education

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Public Schools Act

THE HON. T. L. WELLS
Minister of Education

EXPLANATORY NOTES

SECTION 1. Elector is redefined in relation to *The Municipal Elections Act, 1972*.

SECTION 2. The amendments are to conform to *The Municipal Elections Act, 1972*.

SECTION 3. The amendment removes the provision for staggered elections of a school board in an urban municipality that is not in a school division.

BILL 125

1972

An Act to amend The Public Schools Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *b* of section 1 of *The Public Schools Act*, being ^{s. 1 (b),} chapter 385 of the Revised Statutes of Ontario, 1970, is ^{re-enacted} repealed and the following substituted therefor:

(b) "elector" in respect of a school section means a public school elector under *The Municipal Elections Act, 1972* who is qualified to vote at an election of public school trustees in such school section. ^{1972, c. ...}

2.—(1) Subsection 1 of section 13 of the said Act, as ^{s. 13 (1),} amended by the Statutes of Ontario, 1971, chapter 98, section 4, schedule, paragraph 27, is further amended by adding "and" at the end of clause *b* and by striking out clauses *c* and *d* and inserting in lieu thereof the following:

(c) is an elector resident in the school section.

(2) Clause *a* of subsection 2 of the said section 13 is ^{s. 13 (2) (a),} amended by striking out "day on which the nomination meeting for a new election is to be held unless before the opening of the nomination meeting" in the eleventh, twelfth and thirteenth lines and inserting in lieu thereof "last day for filing nominations for a new election unless before the closing of nominations".

(3) Subsection 2 of the said section 13 is amended by ^{s. 13 (2),} striking out "or" at the end of clause *d*, by adding "or" at the end of clause *c* and by striking out clause *e*.

(4) Subsections 4 and 5 of the said section 13 are repealed. ^{s. 13 (4, 5),} repealed

3. Subsection 1 of section 16 of the said Act is amended ^{s. 16 (1),} by striking out "with one-half of the trustees retiring each year" in the third and fourth lines. ^{amended}

s. 17 (1),
amended

4. Subsection 1 of section 17 of the said Act is amended by striking out "one of whom shall retire each year" in the third line.

s. 19 (1),
repealed

5. Subsection 1 of section 19 of the said Act is repealed.

s. 20,
re-enacted

6. Section 20 of the said Act is repealed and the following substituted therefor:

Electors
in school
section

20. A person is entitled to vote at the election of trustees in a school section if he is an elector in respect of such school section.

s. 21,
re-enacted

7. Section 21 of the said Act is repealed and the following substituted therefor:

Elections

21. The election of members of the board of an urban municipality shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality under *The Municipal Elections Act, 1972*.

1972, c. ...

s. 22 (2, 3),
re-enacted

8. Subsections 2 and 3 of section 22 of the said Act are repealed and the following substituted therefor:

Idem

(2) Subject to subsection 3, where a vacancy occurs from any cause in an urban school board or a township school area board and the remaining trustees do not constitute a majority of the membership of the board, a new election shall be held to fill the vacancies, and every member so elected shall hold office for the remainder of the term for which his predecessor was elected.

Idem

(3) In the case of an urban school board or a township school area board,

(a) any vacancy that occurs within one month of the time for the next ensuing election shall not be filled in the manner provided by subsection 1 or 2, but the office shall remain vacant until the election; and

(b) any vacancy that occurs after the election but before the new board is organized shall be filled immediately after the new board is organized in the manner provided in subsection 1 or 2, as the case may be.

Election
to fill
vacancy

(3a) Notwithstanding subsections 1, 2 and 3, the board of an urban school section may by resolution require

SECTION 4. The amendment removes the provision for staggered elections of trustees of a school board in an urban municipality divided into wards that is not in a school division.

SECTION 5. Complementary to section 3.

SECTION 6. This amendment makes the qualifications for voting for public school trustees in an urban school section the same as those for voting for the members to represent the public school electors on a divisional board of education.

SECTION 7. The section is re-enacted to make the provisions of *The Municipal Elections Act, 1972* apply to an election of an urban public school board.

SECTION 8. The amendments are to delete provisions respecting staggered elections and to permit an urban board to fill vacancies by election.

SECTION 9 The provisions of *The Municipal Elections Act, 1972* render these sections unnecessary.

SECTION 10. The amendment provides that a by-law for altering a school section is valid notwithstanding any defect in form unless an application to quash is made within thirty days of approval of the Minister.

SECTION 11. Section 27, as re-enacted, places the trustees of every board of a township school area on a two-year term beginning with elections in 1972.

SECTION 12. The amendment provides for the manner in which moneys raised in a municipality where there is no public school board may be used when the municipality comes within the jurisdiction of a board.

that an election be held to fill a vacancy on the board and, where an election is held, the provisions of *The Municipal Elections Act, 1972* that pertain^{1972, c. ...} to an election to fill a vacancy shall apply.

9. Sections 23 and 24 of the said Act are repealed. ss. 23, 24,
repealed

10. Section 26 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 69, section 2, is amended by adding thereto the following subsection: s. 26,
amended

- (7) A by-law of a municipality for altering a school section is valid and binding, notwithstanding any defect in substance or form or in the manner or time of passing or making, unless an application to quash the by-law has been made within thirty days after the clerk of the municipality has received notice from the Minister that he has approved the by-law. Quashing of
by-law

11. Section 27 of the said Act is repealed and the following substituted therefor: s. 27,
re-enacted

27.—(1) There shall be a board of five public school trustees for every township school area. Township
School Area
Board

(2) The election of trustees for a township school area, except a township school area formed under section 29, shall be by ballot in accordance with section 21. Election of
trustees

(3) The term of office of all trustees of a township school area now in office shall expire at the end of the year 1972 and elections for all trustees of a township school area shall be held in the year 1972 and in every second year thereafter, and trustees shall hold office for a term of two years. Biennial
elections

12. Section 49 of the said Act is amended by adding thereto the following subsections: s. 49,
amended

(2) The moneys raised under subsection 1 shall be deposited in a reserve account for public school purposes and may be invested in such securities as a trustee may invest in under *The Trustee Act*, and the earnings from such investments shall form part of the reserve account. Reserve
account

R.S.O. 1970,
c. 470

(3) Subject to subsection 4, where, in a municipality referred to in subsection 1, a public school board is organized and makes provision for the education of its resident pupils, the municipal council shall pay Use of
moneys in
account

over to the board such moneys as are held by the municipality under this section, and such moneys,

- (a) shall be used for such expenditures for permanent improvements for public school purposes as the board considers expedient; and
- (b) in any one year, may be used to defray not more than one-third of the amount that would otherwise be required to be requisitioned by the board for public school purposes from such municipality.

Application
in a school
division

- (4) Where a municipality referred to in subsection 1 becomes part of a school division, the municipal council shall pay over to the divisional board such moneys as are held by the municipality and such moneys shall be used as provided in clause b of subsection 3.

s. 50,
re-enacted

13. Section 50 of the said Act is repealed and the following substituted therefor:

Reserve fund
for public
school
purposes,
application
in 1973

- 50.—(1) Moneys that are held by a municipality as of the 31st day of December, 1972 and were derived from the Ontario Municipalities Fund or from any other source for public school purposes, except the collection of rates, shall be applied by the municipality in the year 1973 to reduce the rate that would otherwise be required to be levied for public school purposes in the municipality.

Area municipa-
lities in
Niagara
Region

R.S.O. 1970,
c. 406

- (2) Where an area municipality, as defined in *The Regional Municipality of Niagara Act* holds moneys referred to in subsection 1, such moneys shall be applied by the area municipality in the year 1973 to reduce the rate that would otherwise be required to be levied for public school purposes in the part of the area municipality that, on the 31st day of December, 1969, was a municipality that held such moneys, and where there is more than one such part in the area municipality, the moneys shall be applied by the area municipality in respect of each such part in the ratio in which the moneys were held by the former municipalities.

Where part
of municipa-
lity
detached

- (3) Where, on the 31st day of December, 1972, a municipality holds moneys referred to in subsection 1 and a portion of such municipality is, on the 1st day of January, 1973, detached therefrom, such moneys shall be apportioned by the clerk of such

SECTION 13. The amendment provides for the use in 1973 of the moneys held by a municipality for school purposes from any source other than rates.

SECTION 14. This amendment provides that the expenditure for permanent improvements together with any allocation to a reserve fund shall not exceed one mill on equalized assessment rateable for public school purposes.

municipality between the detached portion and the remainder of the municipality in the ratio that the assessment of the property rateable for public school purposes on which taxes were levied in 1972 in the detached portion bears to such assessment in the remainder of the municipality and the amount so apportioned to the portion detached and the remainder of the municipality shall be applied to reduce the rates that would otherwise be required to be levied for public school purposes in 1973 in the detached portion and in the remainder, and the amount of money apportioned to the detached portion shall, before the 31st day of January, 1973, be paid over to the municipality of which the detached portion becomes a part.

14. Subclause iv of clause *b* of subsection 1 of section 51 of the said Act is repealed and the following substituted therefor: ^{s. 51 (1) (b) (iv), re-enacted}

(iv) may provide for expenditures for permanent improvements and for an allocation to a reserve fund, provided that the total of expenditures for permanent improvements referred to in subparagraphs i, ii, iii and vii of paragraph 18 of subsection 2 of section 1 of *The Schools Administration Act*, together with any sum allocated to a reserve fund, shall not exceed a sum calculated in the manner provided for public school purposes in respect of a divisional board of education in clause *d* of subsection 1 of section 31 of *The Secondary Schools and Boards of Education Act*. ^{R.S.O. 1970, c.c. 424, 425}

15.—(1) This Act, except sections 13 and 14, comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>

(2) Sections 13 and 14 come into force on the 1st day of January, 1973. ^{Idem}

16. This Act may be cited as *The Public Schools Amendment Act*, 1972. ^{Short title}

An Act to amend
The Public Schools Act

1st Reading

May 15th, 1972

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Education

(Government Bill)

BILL 125

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Public Schools Act

THE HON. T. L. WELLS
Minister of Education

TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER AND PUBLISHER

BILL 125

1972

An Act to amend The Public Schools Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *b* of section 1 of *The Public Schools Act*, being^{s. 1 (b), re-enacted} chapter 385 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

(b) "elector" in respect of a school section means a public school elector under *The Municipal Elections Act, 1972* who is qualified to vote at an election of public school trustees in such school section.

2.—(1) Subsection 1 of section 13 of the said Act, as^{s. 13 (1), amended} amended by the Statutes of Ontario, 1971, chapter 98, section 4, schedule, paragraph 27, is further amended by adding "and" at the end of clause *b* and by striking out clauses *c* and *d* and inserting in lieu thereof the following:

(c) is an elector resident in the school section.

(2) Clause *a* of subsection 2 of the said section 13 is^{s. 13 (2) (a), amended} amended by striking out "day on which the nomination meeting for a new election is to be held unless before the opening of the nomination meeting" in the eleventh, twelfth and thirteenth lines and inserting in lieu thereof "last day for filing nominations for a new election unless before the closing of nominations".

(3) Subsection 2 of the said section 13 is amended by^{s. 13 (2), amended} striking out "or" at the end of clause *d*, by adding "or" at the end of clause *c* and by striking out clause *e*.

(4) Subsections 4 and 5 of the said section 13 are repealed.^{s. 13 (4, 5), repealed}

3. Subsection 1 of section 16 of the said Act is amended^{s. 16 (1), amended} by striking out "with one-half of the trustees retiring each year" in the third and fourth lines.

s. 17 (1),
amended

4. Subsection 1 of section 17 of the said Act is amended by striking out "one of whom shall retire each year" in the third line.

s. 19 (1),
repealed

5. Subsection 1 of section 19 of the said Act is repealed.

s. 20,
re-enacted

6. Section 20 of the said Act is repealed and the following substituted therefor:

Electors
in school
section

20. A person is entitled to vote at the election of trustees in a school section if he is an elector in respect of such school section.

s. 21,
re-enacted

7. Section 21 of the said Act is repealed and the following substituted therefor:

Elections

21. The election of members of the board of an urban municipality shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality under *The Municipal Elections Act, 1972*.

1972, c. ...

s. 22 (2, 3),
re-enacted

8. Subsections 2 and 3 of section 22 of the said Act are repealed and the following substituted therefor:

Idem

(2) Subject to subsection 3, where a vacancy occurs from any cause in an urban school board or a township school area board and the remaining trustees do not constitute a majority of the membership of the board, a new election shall be held to fill the vacancies, and every member so elected shall hold office for the remainder of the term for which his predecessor was elected.

Idem

(3) In the case of an urban school board or a township school area board,

(a) any vacancy that occurs within one month of the time for the next ensuing election shall not be filled in the manner provided by subsection 1 or 2, but the office shall remain vacant until the election; and

(b) any vacancy that occurs after the election but before the new board is organized shall be filled immediately after the new board is organized in the manner provided in subsection 1 or 2, as the case may be.

Election
to fill
vacancy

(3a) Notwithstanding subsections 1, 2 and 3, the board of an urban school section may by resolution require

that an election be held to fill a vacancy on the board and, where an election is held, the provisions of *The Municipal Elections Act, 1972* that pertain ^{1972, c. ...} to an election to fill a vacancy shall apply.

9. Sections 23 and 24 of the said Act are repealed. ss. 23, 24,
repealed

10. Section 26 of the said Act, as re-enacted by the s. 26,
amended Statutes of Ontario, 1971, chapter 69, section 2, is amended by adding thereto the following subsection:

- (7) A by-law of a municipality for altering a school Quashing of
by-law section is valid and binding, notwithstanding any defect in substance or form or in the manner or time of passing or making, unless an application to quash the by-law has been made within thirty days after the clerk of the municipality has received notice from the Minister that he has approved the by-law.

11. Section 27 of the said Act is repealed and the following s. 27,
re-enacted substituted therefor:

- 27.—(1) There shall be a board of five public school Township
School Area
Board trustees for every township school area.
- (2) The election of trustees for a township school area, Election of
trustees except a township school area formed under section 29, shall be by ballot in accordance with section 21.
- (3) The term of office of all trustees of a township school Biennial
elections area now in office shall expire at the end of the year 1972 and elections for all trustees of a township school area shall be held in the year 1972 and in every second year thereafter, and trustees shall hold office for a term of two years.

12. Section 49 of the said Act is amended by adding s. 49,
amended thereto the following subsections:

- (2) The moneys raised under subsection 1 shall be Reserve
account deposited in a reserve account for public school purposes and may be invested in such securities as a trustee may invest in under *The Trustee Act*, and R.S.O. 1970,
c. 470 the earnings from such investments shall form part of the reserve account.
- (3) Subject to subsection 4, where, in a municipality Use of
moneys in
account referred to in subsection 1, a public school board is organized and makes provision for the education of its resident pupils, the municipal council shall pay

over to the board such moneys as are held by the municipality under this section, and such moneys,

- (a) shall be used for such expenditures for permanent improvements for public school purposes as the board considers expedient ; and
- (b) in any one year, may be used to defray not more than one-third of the amount that would otherwise be required to be requisitioned by the board for public school purposes from such municipality.

Application
in a school
division

- (4) Where a municipality referred to in subsection 1 becomes part of a school division, the municipal council shall pay over to the divisional board such moneys as are held by the municipality and such moneys shall be used as provided in clause *b* of subsection 3.

s. 50,
re-enacted

13. Section 50 of the said Act is repealed and the following substituted therefor:

Reserve fund
for public
school
purposes,
application
in 1973

- 50.—(1) Moneys that are held by a municipality as of the 31st day of December, 1972 and were derived from the Ontario Municipalities Fund or from any other source for public school purposes, except the collection of rates, shall be applied by the municipality in the year 1973 to reduce the rate that would otherwise be required to be levied for public school purposes in the municipality.

Area municipi-
palities in
Niagara
Region

R.S.O. 1970,
c. 406

- (2) Where an area municipality, as defined in *The Regional Municipality of Niagara Act* holds moneys referred to in subsection 1, such moneys shall be applied by the area municipality in the year 1973 to reduce the rate that would otherwise be required to be levied for public school purposes in the part of the area municipality that, on the 31st day of December, 1969, was a municipality that held such moneys, and where there is more than one such part in the area municipality, the moneys shall be applied by the area municipality in respect of each such part in the ratio in which the moneys were held by the former municipalities.

Where part
of municipi-
pality
detached

- (3) Where, on the 31st day of December, 1972, a municipality holds moneys referred to in subsection 1 and a portion of such municipality is, on the 1st day of January, 1973, detached therefrom, such moneys shall be apportioned by the clerk of such

municipality between the detached portion and the remainder of the municipality in the ratio that the assessment of the property rateable for public school purposes on which taxes were levied in 1972 in the detached portion bears to such assessment in the remainder of the municipality and the amount so apportioned to the portion detached and the remainder of the municipality shall be applied to reduce the rates that would otherwise be required to be levied for public school purposes in 1973 in the detached portion and in the remainder, and the amount of money apportioned to the detached portion shall, before the 31st day of January, 1973, be paid over to the municipality of which the detached portion becomes a part.

14. Subclause iv of clause *b* of subsection 1 of section 51 of the said Act is repealed and the following substituted therefor: ^{s. 51 (1) (b) (iv), re-enacted}

- (iv) may provide for expenditures for permanent improvements and for an allocation to a reserve fund, provided that the total of expenditures for permanent improvements referred to in subparagraphs i, ii, iii and vii of paragraph 18 of subsection 2 of section 1 of *The Schools Administration Act*, together with any sum allocated to a reserve fund, shall not exceed a sum calculated in the manner provided for public school purposes in respect of a divisional board of education in clause *d* of subsection 1 of section 31 of *The Secondary Schools and Boards of Education Act*. ^{R.S.O. 1970, cc. 424, 425}

15.—(1) This Act, except sections 13 and 14, comes into force on the day it receives Royal Assent. ^{Commencement}

(2) Sections 13 and 14 come into force on the 1st day of January, 1973. ^{Idem}

16. This Act may be cited as *The Public Schools Amendment Act, 1972*. ^{Short title}

An Act to amend
The Public Schools Act

1st Reading

May 15th, 1972

2nd Reading

May 25th, 1972

3rd Reading

June 21st, 1972

THE HON. T. L. WELLS
Minister of Education

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to amend
The Secondary Schools and Boards of Education Act**

THE HON. T. L. WELLS
Minister of Education

EXPLANATORY NOTES

SECTION 1. The amendment will make a person who resides in the same secondary school district as his parent or guardian a resident pupil whether or not he resides with his parent or guardian.

SECTION 2. The amendments provide that the qualifications and disqualifications of a member of a secondary school board are the same as those for a divisional board of education and brings the provisions in line with *The Municipal Elections Act, 1972*.

SECTION 3. The amendment is complementary to an amendment to section 27 defining locality.

BILL 126

1972

An Act to amend The Secondary Schools and Boards of Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of section 1 of *The Secondary Schools and Boards of Education Act*, being chapter 425 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

- (a) if he and his parent or guardian reside in the secondary school district; or

2.—(1) Subsection 1 of section 5 of the said Act, as amended <sup>s. 5 (1),
amended</sup> by the Statutes of Ontario, 1971, chapter 98, section 4, schedule, paragraph 29, is further amended by adding “and” at the end of clause *b* and by striking out clauses *c* and *d* and inserting in lieu thereof the following:

- (c) who is an elector resident in the secondary school district.

(2) Clause *a* of subsection 2 of the said section 5 is amended <sup>s. 5 (2) (a),
amended</sup> by striking out “day on which the nomination meeting for a new election is to be held unless before the opening of the nomination meeting” in the eleventh, twelfth and thirteenth lines and inserting in lieu thereof “last day for filing nominations for a new election unless before the closing of nominations”.

(3) Subsection 2 of the said section 5 is amended by adding <sup>s. 5 (2),
amended</sup> “or” at the end of clause *b*, by striking out “or” at the end of clause *c* and by striking out clause *d*.

- (4) Subsections 4 and 5 of the said section 5 are repealed. <sup>s. 5 (4, 5),
repealed</sup>

3. Subsection 1 of section 9 of the said Act is repealed and <sup>s. 9 (1),
re-enacted</sup> the following substituted therefor:

Secondary
school
property
vested in
board

- (1) All property heretofore granted or devised to, acquired by or vested in any person or corporation for the secondary school purposes of a secondary school district or any part thereof, or that may hereafter be so granted, devised, acquired or vested, is vested in the board having jurisdiction in the secondary school district.

s. 13,
re-enacted;
ss. 14-18,
repealed

4. Sections 13, 14, 15, 16, 17 and 18 of the said Act are repealed and the following substituted therefor:

Advisory
committee

- 13.—(1) A secondary school board that provides or plans to provide a vocational course may, by resolution, appoint an advisory committee to be known as the advisory committee for.....
(*inserting the name of the vocational course*) and composed of such persons, all or any of whom may be members of the board, appointed for such term, not extending beyond the term of office of the members of the board, as the board considers necessary to advise the board on matters relating to the vocational course.

Honorarium

- (2) A secondary school board may pay to each person appointed under subsection 1 who is not a member of the board such honorarium as the board may determine for each month for which he is appointed, but such honorarium shall not exceed one-half of the amount determined under subsection 1 of section 40 of *The Schools Administration Act* based on the enrolment on the 30th day of September in the preceding year in all secondary schools that, on the 1st day of January of the current year, are operated by the board.

s. 24 (3),
amended

5. Subsection 3 of section 24 of the said Act is amended by inserting after "disqualified" in the third line "during the term of office for which he was elected or appointed".

s. 27 (1),
amended

- 6.—(1) Subsection 1 of section 27 of the said Act is amended by adding thereto the following clause:

(*fa*) "locality" means a part of territory without municipal organization that is deemed to be a district municipality under subsection 4.

s. 27 (1) (*g, i*),
re-enacted

- (2) Clauses *g* and *i* of subsection 1 of the said section 27 are repealed and the following substituted therefor:

(*g*) "public school elector", in respect of an area for which one or more members of a divisional board are

SECTION 4. The amendment substitutes for the present mandatory standing advisory vocational committee permission for a secondary school board to appoint a temporary committee to advise the board in respect of a vocational course.

SECTION 5. The subsection is amended to make it clear that the exception applies only during the term of office for which the member was elected or appointed prior to January 1st, 1970.

SECTION 6.—Subsection 1. A definition of locality is provided.

Subsection 2. The definitions of public school elector and separate school supporter in relation to school divisions are revised to conform to *The Municipal Elections Act, 1972*.

Subsection 3. The amendment is complementary to amendments to *The Ministry of Education Act* providing for assessment equalization factors to be determined by the Minister.

Subsection 4. Complementary to *The Municipal Elections Act, 1972*.

SECTION 7. The amendments provide that the limit of one mill on equalized assessment shall apply to the sum of the expenditures for permanent improvements and any amount allocated to a reserve fund. The former approval of the municipal councils that placed an effective limit on such reserve funds has not been required since 1969.

to be elected by public school electors, means a public school elector under *The Municipal Elections Act, 1972* who is qualified to vote at the election for such members in such area;

- (i) "separate school supporter", in respect of an area for which one or more members of a divisional board are to be elected by separate school supporters, means a separate school elector under *The Municipal Elections Act, 1972* who is qualified to vote at the election of such members in such area.

(3) Subsection 8 of the said section 27, as amended by the Statutes of Ontario, 1972, chapter 1, section 63, subsection 1, is further amended by striking out "the application of the equalization factor, based on such assessment" in the tenth and eleventh lines and inserting in lieu thereof "the assessment equalization factor applicable thereto". s. 27 (8),
amended

(4) Subsection 9 of the said section 27 is amended by striking out "the preparation of a voters' list and the election of members of a divisional board under *The Municipal Act* and *The Voters' Lists Act* which apply *mutatis mutandis*" in the ninth, tenth and eleventh lines and inserting in lieu thereof "the election of members of a divisional board under *The Municipal Elections Act, 1972*". s. 27 (9),
amended

7.—(1) Clause *d* of subsection 1 of section 31 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 63, subsections 2 and 3, is repealed and the following substituted therefor: s. 31 (1) (d),
re-enacted

- (d) may provide for expenditures for permanent improvements and for an allocation to a reserve fund, provided that the total of expenditures for permanent improvements referred to in subparagraphs i, ii, iii and vii of paragraph 18 of subsection 2 of section 1 of *The Schools Administration Act*, together with any sum allocated to a reserve fund, R.S.O. 1970,
c. 424

- (i) for secondary school purposes, shall not exceed an amount calculated at one mill in the dollar upon the total of the equalized assessments of the municipalities and localities in the school division, and

- (ii) for public school purposes, shall not exceed an amount calculated at one mill in the dollar upon the total of the equalized assessments of the property rateable for public school purposes in the municipalities and localities in the school division.

s. 31,
amended

(2) The said section 31 is amended by adding thereto the following subsection:

Interpre-
tation

- (1a) In subsection 1, "equalized assessment" for a municipality or a locality means the assessment upon which taxes are levied in the municipality or locality, as the case may be, in the year preceding the year for which the estimates are adopted as adjusted by the assessment equalization factor applicable thereto that is provided by the Minister.

s. 32 (1),
re-enacted

8.—(1) Subsection 1 of section 32 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 63, subsection 4, is repealed and the following substituted therefor:

Interpre-
tation

- (1) In this section, "equalized assessment" for a municipality or a locality means the assessment upon which taxes are levied in the municipality or locality, as the case may be, in the year preceding the year for which the apportionment is made as adjusted by the assessment equalization factor applicable thereto that is provided by the Minister.

s. 32 (3),
amended

(2) Subsection 3 of the said section 32 is amended by inserting after "municipalities" in the second line "and localities" and by inserting after "municipality" in the fifth line "or locality".

s. 32 (4),
amended

(3) Subsection 4 of the said section 32 is amended by inserting after "municipalities" in the second line "and localities" and by inserting after "municipality" in the fifth line "or locality".

s. 32 (7),
amended

(4) Subsection 7 of the said section 32 is amended by inserting after "county" in the second line "or the regional municipality or, in the case of The Muskoka Board of Education, the treasurer of The District Municipality of Muskoka".

s. 33 (1),
repealed

9.—(1) Subsection 1 of section 33 of the said Act is repealed.

s. 33 (2),
amended

(2) Subsection 2 of the said section 33 is amended by inserting after "thereof" in the fifth line "and localities".

SECTION 8.—Subsection 1. Equalized assessment is redefined.

Subsections 2 and 3. References to locality are inserted.

Subsection 4. The amendment provides for the treasurer of a regional municipality or of The District Municipality of Muskoka to be one of the arbitrators to determine apportionment.

SECTION 9. Subsection 1 is repealed as being no longer required and the other subsections are amended to make reference to localities.

SECTION 10. The new subsection provides for the clerk of a defined city to determine the number of members of the divisional board to be elected by separate school supporters.

SECTION 11.—Subsections 1, 2 and 3. The definitions are revised and brought up-to-date.

Subsection 4. The amendment is to correct a typographical error.

Subsection 5 and 6. The amendments provide for the use of equalized residential and farm assessment as redefined in subsection 1 of this section of the Bill in making the determinations referred to in subsection 9 of section 38 of the Act.

(3) Subsection 3 of the said section 33 is amended by striking out "passed" in the fourth line and inserting in lieu thereof "made" and by inserting after "thereof" in the fifth line "and localities". ^{s. 33 (3), amended}

(4) Subsection 4 of the said section 33 is amended by striking out "the regulations" in the second line and inserting in lieu thereof "a regulation made under this section" and by inserting after "part" in the third line "thereof or a locality". ^{s. 33 (4), amended}

10. Section 37 of the said Act is amended by adding thereto the following subsection: ^{s. 37, amended}

(2a) The clerk of the defined city shall make the determination under subsection 2 and shall send to the secretary of the divisional board, before the 1st day of September in the year of the election of the divisional board, a copy of the determination. ^{Clerk to make determination}

11.—(1) Clause *a* of subsection 1 of section 38 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 63, subsection 5, is repealed and the following substituted therefor: ^{s. 38 (1) (a), re-enacted}

(a) "equalized residential and farm assessment" means the residential and farm assessment referred to in clause *c* as adjusted by the assessment equalization factor applicable thereto that is provided by the Minister.

(2) Clause *b* of subsection 1 of the said section 38 is amended by adding at the end thereof "or under *The Regional Municipal Grants Act* for the purposes of that Act". ^{s. 38 (1) (b), amended}

(3) Clause *c* of subsection 1 of the said section 38 is amended by striking out "4, 5, 6, 12, 13, 14, 22 or 23" in the second line and inserting in lieu thereof "4, 5, 6, 9, 9a, 9b, 11, 12, 13, 14, 16, 22 or 23". ^{s. 38 (1) (c), amended}

(4) Clause *a* of subsection 6 of the said section 38 is amended by striking out "of" where it occurs the first time in the seventh line and inserting in lieu thereof "to". ^{s. 38 (6) (a), amended}

(5) Clause *b* of subsection 9 of the said section 38, as amended by the Statutes of Ontario, 1972, chapter 1, section 63, subsection 6, is further amended by inserting after "greatest" in the third line "equalized" and by striking out "according to the last revised assessment roll as adjusted by the application of the equalization factor based on such assessment provided by the Minister" in the fifth, sixth, seventh and eighth lines and in the amendment of 1972. ^{s. 38 (9) (b), amended}

s. 38 (9) (c),
amended

(6) Clause *c* of subsection 9 of the said section 38, as amended by the Statutes of Ontario, 1972, chapter 1, section 63, subsection 7, is further amended by inserting after "greatest" in the third line "equalized" and by striking out "according to the last revised assessment roll as adjusted by the application of the equalization factor based on such assessment provided by the Minister" in the fifth, sixth, seventh and eighth lines and in the amendment of 1972.

s. 38,
amended

(7) The said section 38, as amended by the Statutes of Ontario, 1972, chapter 1, section 63, subsections 5 to 9, is further amended by adding thereto the following subsections:

Distribution
of members
within
combined
municipalities

(9a) Where two or more county municipalities that are not in a regional municipality are combined under subsection 9 for the election of two or more members by the public school electors and one of the combined municipalities has a population in excess of 75,000, the clerks of such combined municipalities may determine that a portion of a county municipality that is so combined be attached to one or more of the other county municipalities in the combination of municipalities for the election of one or two members and, where the clerks of such combined municipalities so determine,

(a) the number of members to be elected by the public school electors of the combined municipalities shall be apportioned among the combined areas formed under this subsection and the remainder, if any, of such combined municipalities, as nearly as is practicable in the proportion that the equalized residential and farm assessment of the property rateable for public school purposes in each such combined area and in the remainder, if any, of such combined municipalities, bears to the total equalized residential and farm assessment of the property rateable for public school purposes in the combined municipalities; and

(b) where the remainder of a county municipality is to be represented by two or more members, subsections 19 and 20 shall apply *mutatis mutandis* in respect of such remainder.

Appeal from
determination
under
subs. 9a

(9b) Where the determination made under subsection 9a apportions to a combined area or to the remainder of the combined municipalities a percentage of the total number of members to be elected by the public school

Subsection 7. The new subsection 9a permits county municipalities that are combined for the purpose of the election of two or more members by the public school electors to be divided into areas for the election of one or two members in each area. The new subsection 9b provides for an appeal to the judge by the council of any municipality directly affected by the decision made under subsection 9a where the division of the combined municipalities is not in proportion to the residential and farm assessment rateable for public school purposes.

Subsection 8. The subsection is amended to make it apply to a determination under the new subsection 9a.

Subsections 9 and 10. The amendments provide for the use of equalized residential and farm assessment as redefined in subsection 1 of this section of the Bill in making the determinations referred to in the amended subsections.

electors of the combined municipalities as determined under subsection 9 that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for public school purposes in the combined area or the remainder of the combined municipalities, as the case may be, is of the total equalized residential and farm assessment of the property rateable for public school purposes in the combined municipalities, the council of a municipality all or part of which is in the combined area or part of which forms such remainder, as the case may be, may, within fifteen days after such determination has been made, appeal the determination to the judge who shall either re-apportion the number of members in accordance with clause *a* of subsection 9*a* or, where he determines that the determination was made in accordance with such clause, confirm the determination, and his decision is final.

(8) Subsection 10 of the said section 38, is amended by ^{s. 38 (10), amended} striking out "Before the 1st day of September in each year in which an election is to be held, the determination under subsection 9 shall be made if" in the first, second and third lines and inserting in lieu thereof "The determination under subsection 9 shall be made before the 1st day of September, and the determination under subsection 9*a* may be made before the 15th day of September, in each year in which an election is to be held if".

(9) Subsection 11 of the said section 38, as amended by ^{s. 38 (11), re-enacted} the Statutes of Ontario, 1972, chapter 1, section 63, subsection 8, is repealed and the following substituted therefor:

(11) Where the determination under subsection 9 is not ^{Where judge to make determination} made before the 1st day of September, the clerk of the county municipality or of the organized district municipality, as the case may be, having the greatest equalized residential and farm assessment for public school purposes in the school division, shall refer the matter to the judge who shall make the determination before the 1st day of October in accordance with subsection 12.

(10) Subsection 16 of the said section 38, as amended by the ^{s. 38 (16), amended} Statutes of Ontario, 1972, chapter 1, section 63, subsection 9, is further amended by inserting after "greatest" in the third line "equalized" and by striking out "according to the last revised assessment roll as adjusted by the application of the equalization factor, based on such assessment, provided by the Minister", in the fifth, sixth and seventh lines and in the amendment of 1972.

s. 38 (21),
re-enacted

(11) Subsection 21 of the said section 38 is repealed and the following substituted therefor:

Election by
public school
electors in
county and
district muni-
cipalities

(21) Where two or more county or district municipalities are combined for the election of one or more members, such member or members shall, except where a determination is made under subsection 9a, be elected by a general vote of the public school electors of the combined municipalities, and where, under subsection 9a or 9b, a portion of a county municipality is attached to one or more other county municipalities for the election of one or two members or the remainder of the combined municipalities comprises parts of two or more municipalities, the number of members apportioned thereto shall be elected by a general vote of the public school electors of such combined area or remainder, and,

(a) the nominations in each case shall be conducted by the returning officer of the municipality having the greatest equalized residential and farm assessment for public school purposes of any municipality all of which is in the area for which the member or members are to be elected, who shall send to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

(b) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause a, who shall prepare the final summary and announce the vote.

s. 38,
amended

(12) The said section 38 is further amended by adding thereto the following subsection:

Distribution
of members
within com-
bined muni-
cipalities

(23a) Where two or more county municipalities are combined for the election of two or more members to be elected by separate school supporters, subsections 9a and 9b apply *mutatis mutandis* to such combination of municipalities except that the equalized residential and farm assessments of the property rateable for separate school purposes shall be used in all the determinations.

Subsection 11. The amendment is complementary to the new subsection 9*a*.

Subsection 12. The new subsection provides for the division of combined municipalities into areas for election purposes for the election of members by the separate school supporters and for an appeal against such division in the same manner as is provided in respect of members to be elected by public school electors under the new subsections 9*a* and 9*b*.

Subsection 13. The amendment is complementary to the new subsection 9a.

Subsection 14. The provisions of subsections 27 to 34 are now contained in *The Municipal Elections Act, 1972* and are, therefore, deleted. The new subsection 27 is complementary to such Act.

SECTION 12. The amendment eliminates the disqualification of a member of a board on the grounds of unpaid taxes and otherwise brings the provisions in line with *The Municipal Elections Act, 1972*.

SECTION 13. The repealed sections become unnecessary as similar provisions are included in *The Municipal Elections Act, 1972*.

SECTION 14. The amendment is required to render this section, in respect of the filling of vacancies on a divisional board, consistent with the provisions of *The Municipal Elections Act, 1972*.

SECTION 15. The amendments are for clarification.

SECTION 16. The clauses referring to programs which are no longer available have been deleted. The remaining clauses have been amended to refer to a pupil's status as a resident pupil.

(13) Clause *c* of subsection 25 of the said section 38 is amended by striking out "in the school division, in the county or district municipalities in the school division or in the combined area, as the case may be" in the fourth, fifth, sixth and seventh lines, and inserting in lieu thereof "of any municipality all of which is in the area for which the member or members are to be elected". s. 38 (25) (c),
amended

(14) Subsections 27 to 34 of the said section 38 are repealed and the following substituted therefor: s. 38 (27),
re-enacted;
s. 38 (28-34),
repealed

(27) The election of members of a divisional board shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality. Elections

12.—(1) Clause *a* of subsection 3 of section 39 of the said Act is amended by striking out "day on which the nomination meeting for a new election is to be held unless before the opening of the nomination meeting" in the tenth, eleventh and twelfth lines and inserting in lieu thereof "last day for filing nominations for a new election unless before the closing of nominations". s. 39 (3) (a),
amended

(2) Subsection 3 of the said section 39 is amended by adding "or" at the end of clause *b*, by striking out "or" at the end of clause *c* and by striking out clause *d*. s. 39 (3),
amended

13. Sections 40 and 41 of the said Act are repealed. ss. 40, 41,
repealed

14. Section 42 of the said Act is amended by adding thereto the following subsection: s. 42,
amended

(5) Notwithstanding the provisions of this section, a divisional board may require that an election be held to fill a vacancy on the board and, where an election is held, the provisions of *The Municipal Elections Act, 1972* that pertain to an election to fill a vacancy shall apply. Election to
fill a
vacancy
1972, c. ...

15.—(1) Subsection 1 of section 44 of the said Act is amended by adding at the end thereof "for a supervisory officer". s. 44 (1),
amended

(2) Subsection 2 of the said section 44 is amended by adding at the end thereof "for a supervisory officer". s. 44 (2),
amended

16.—(1) Clauses *a*, *b*, *c*, *d* and *e* of subsection 2 of section 62 of the said Act are repealed and the following substituted therefor: s. 62 (2) (a, b),
re-enacted;
s. 62 (c-e),
repealed

- (a) that is more accessible to the pupil than any secondary school in the secondary school district of which he is a resident pupil ;
- (b) to take, for the purpose of obtaining the secondary school honour graduation diploma, a subject or subjects not available in the secondary school district of which he is a resident pupil but required by the pupil for admission to any university or teacher-training course or for entry into any trade, profession or calling.

s. 62 (6),
amended

(2) Subsection 6 of the said section 62 is amended by striking out “c, d, e” in the first line.

s. 64,
amended

17. Section 64 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 68, section 6, is further amended by adding thereto the following subsection:

Admission
of adult
resident
who is not
a resident
pupil

- (2) Notwithstanding any general or special Act, a person who resides in a secondary school district and who, except as to residence, is qualified to be a resident pupil in another secondary school district shall be admitted, without the payment of a fee, to a secondary school operated by the board of the secondary school district in which he resides if,

- (a) the person has attained the age of eighteen years and has been promoted or transferred to a secondary school ; and
- (b) the appropriate supervisory officer certifies that there is adequate accommodation in the secondary school.

s. 65 (1),
amended

18. Subsection 1 of section 65 of the said Act is amended by striking out “pupil’s parent or guardian” in the fifth line and inserting in lieu thereof “pupil where the pupil has attained the age of eighteen years, or by his parent or guardian where the pupil has not attained the age of eighteen years”.

Commence-
ment

19.—(1) This Act, except sections 1, 4, 7, 8, 9 and 17 comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1 and 17 come into force on the 1st day of September, 1972.

Idem

(3) Sections 4, 7, 8 and 9 come into force on the 1st day of January, 1973.

Short title

20. This Act may be cited as *The Secondary Schools and Boards of Education Amendment Act, 1972*.

SECTION 17. The amendment is to permit a resident of Ontario who is eighteen years of age or more to be admitted without the payment of a fee to a secondary school in the secondary school district in which he resides although he is not a resident pupil of such secondary school district.

SECTION 18. The amendment will permit the statement to be signed by the pupil where he has attained the age of eighteen years.

An Act to amend
The Secondary Schools and
Boards of Education Act

1st Reading

May 15th, 1972

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Education

(*Government Bill*)

BILL 126

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

**An Act to amend
The Secondary Schools and Boards of Education Act**

THE HON. T. L. WELLS
Minister of Education

TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER AND PUBLISHER

An Act to amend The Secondary Schools and Boards of Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of section 1 of *The Secondary Schools and Boards of Education Act*, being chapter 425 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

- (a) if he and his parent or guardian reside in the secondary school district; or

2.—(1) Subsection 1 of section 5 of the said Act, as amended <sup>s. 5 (1),
amended</sup> by the Statutes of Ontario, 1971, chapter 98, section 4, schedule, paragraph 29, is further amended by adding “and” at the end of clause *b* and by striking out clauses *c* and *d* and inserting in lieu thereof the following:

- (c) who is an elector resident in the secondary school district.

(2) Clause *a* of subsection 2 of the said section 5 is amended <sup>s. 5 (2) (a),
amended</sup> by striking out “day on which the nomination meeting for a new election is to be held unless before the opening of the nomination meeting” in the eleventh, twelfth and thirteenth lines and inserting in lieu thereof “last day for filing nominations for a new election unless before the closing of nominations”.

(3) Subsection 2 of the said section 5 is amended by adding <sup>s. 5 (2),
amended</sup> “or” at the end of clause *b*, by striking out “or” at the end of clause *c* and by striking out clause *d*.

- (4) Subsections 4 and 5 of the said section 5 are repealed. <sup>s. 5 (4, 5),
repealed</sup>

3. Subsection 1 of section 9 of the said Act is repealed and <sup>s. 9 (1),
re-enacted</sup> the following substituted therefor:

Secondary
school
property
vested in
board

- (1) All property heretofore granted or devised to, acquired by or vested in any person or corporation for the secondary school purposes of a secondary school district or any part thereof, or that may hereafter be so granted, devised, acquired or vested, is vested in the board having jurisdiction in the secondary school district.

s. 13,
re-enacted;
ss. 14-18,
repealed

4. Sections 13, 14, 15, 16, 17 and 18 of the said Act are repealed and the following substituted therefor:

Advisory
committee

- 13.—(1) A secondary school board that provides or plans to provide a vocational course may, by resolution, appoint an advisory committee to be known as the advisory committee for.....
(inserting the name of the vocational course) and composed of such persons, all or any of whom may be members of the board, appointed for such term, not extending beyond the term of office of the members of the board, as the board considers necessary to advise the board on matters relating to the vocational course.

Honorarium

- (2) A secondary school board may pay to each person appointed under subsection 1 who is not a member of the board such honorarium as the board may determine for each month for which he is appointed, but such honorarium shall not exceed one-half of the amount determined under subsection 1 of section 40 of *The Schools Administration Act* based on the enrolment on the 30th day of September in the preceding year in all secondary schools that, on the 1st day of January of the current year, are operated by the board.

R.S.O. 1970,
c. 424

s. 24 (3),
amended

5. Subsection 3 of section 24 of the said Act is amended by inserting after "disqualified" in the third line "during the term of office for which he was elected or appointed".

s. 27 (1),
amended

- 6.—(1) Subsection 1 of section 27 of the said Act is amended by adding thereto the following clause:

(fa) "locality" means a part of territory without municipal organization that is deemed to be a district municipality under subsection 4.

s. 27 (1) (g, i),
re-enacted

- (2) Clauses g and i of subsection 1 of the said section 27 are repealed and the following substituted therefor:

(g) "public school elector", in respect of an area for which one or more members of a divisional board are

to be elected by public school electors, means a public school elector under *The Municipal Elections Act, 1972*, c. ... who is qualified to vote at the election for such members in such area;

- (2) "separate school supporter", in respect of an area for which one or more members of a divisional board are to be elected by separate school supporters, means a separate school elector under *The Municipal Elections Act, 1972* who is qualified to vote at the election of such members in such area.

(3) Subsection 8 of the said section 27, as amended by the ^{s. 27 (8), amended} Statutes of Ontario, 1972, chapter 1, section 63, subsection 1, is further amended by striking out "the application of the equalization factor, based on such assessment" in the tenth and eleventh lines and inserting in lieu thereof "the assessment equalization factor applicable thereto".

(4) Subsection 9 of the said section 27 is amended by ^{s. 27 (9), amended} striking out "the preparation of a voters' list and the election of members of a divisional board under *The Municipal Act* and *The Voters' Lists Act* which apply *mutatis mutandis*" in the ninth, tenth and eleventh lines and inserting in lieu thereof "the election of members of a divisional board under *The Municipal Elections Act, 1972*".

7.—(1) Clause *d* of subsection 1 of section 31 of the said Act, ^{s. 31 (1) (d), re-enacted} as amended by the Statutes of Ontario, 1972, chapter 1, section 63, subsections 2 and 3, is repealed and the following substituted therefor:

- (*d*) may provide for expenditures for permanent improvements and for an allocation to a reserve fund, provided that the total of expenditures for permanent improvements referred to in subparagraphs i, ii, iii and vii of paragraph 18 of subsection 2 of section 1 of *The Schools Administration Act*, together with any ^{R.S.O. 1970, c. 424} sum allocated to a reserve fund,

- (i) for secondary school purposes, shall not exceed an amount calculated at one mill in the dollar upon the total of the equalized assessments of the municipalities and localities in the school division, and

- (ii) for public school purposes, shall not exceed an amount calculated at one mill in the dollar upon the total of the equalized assessments of the property rateable for public school purposes in the municipalities and localities in the school division.

s. 31,
amended

(2) The said section 31 is amended by adding thereto the following subsection:

Interpre-
tation

- (1a) In subsection 1, "equalized assessment" for a municipality or a locality means the assessment upon which taxes are levied in the municipality or locality, as the case may be, in the year preceding the year for which the estimates are adopted as adjusted by the assessment equalization factor applicable thereto that is provided by the Minister.

s. 32 (1),
re-enacted

8.—(1) Subsection 1 of section 32 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 63, subsection 4, is repealed and the following substituted therefor:

Interpre-
tation

- (1) In this section, "equalized assessment" for a municipality or a locality means the assessment upon which taxes are levied in the municipality or locality, as the case may be, in the year preceding the year for which the apportionment is made as adjusted by the assessment equalization factor applicable thereto that is provided by the Minister.

s. 32 (3),
amended

(2) Subsection 3 of the said section 32 is amended by inserting after "municipalities" in the second line "and localities" and by inserting after "municipality" in the fifth line "or locality".

s. 32 (4),
amended

(3) Subsection 4 of the said section 32 is amended by inserting after "municipalities" in the second line "and localities" and by inserting after "municipality" in the fifth line "or locality".

s. 32 (7),
amended

(4) Subsection 7 of the said section 32 is amended by inserting after "county" in the second line "or the regional municipality or, in the case of The Muskoka Board of Education, the treasurer of The District Municipality of Muskoka".

s. 33 (1),
repealed

9.—(1) Subsection 1 of section 33 of the said Act is repealed.

s. 33 (2),
amended

(2) Subsection 2 of the said section 33 is amended by inserting after "thereof" in the fifth line "and localities".

(3) Subsection 3 of the said section 33 is amended by striking out "passed" in the fourth line and inserting in lieu thereof "made" and by inserting after "thereof" in the fifth line "and localities". ^{s. 33 (3), amended}

(4) Subsection 4 of the said section 33 is amended by striking out "the regulations" in the second line and inserting in lieu thereof "a regulation made under this section" and by inserting after "part" in the third line "thereof or a locality". ^{s. 33 (4), amended}

10. Section 37 of the said Act is amended by adding thereto the following subsection: ^{s. 37, amended}

(2a) The clerk of the defined city shall make the determination under subsection 2 and shall send to the secretary of the divisional board, before the 1st day of September in the year of the election of the divisional board, a copy of the determination. ^{Clerk to make determination}

11.—(1) Clause *a* of subsection 1 of section 38 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 63, subsection 5, is repealed and the following substituted therefor: ^{s. 38 (1) (a), re-enacted}

(a) "equalized residential and farm assessment" means the residential and farm assessment referred to in clause *c* as adjusted by the assessment equalization factor applicable thereto that is provided by the Minister.

(2) Clause *b* of subsection 1 of the said section 38 is amended by adding at the end thereof "or under *The Regional Municipal Grants Act* for the purposes of that Act". ^{s. 38 (1) (b), amended}

(3) Clause *c* of subsection 1 of the said section 38 is amended by striking out "4, 5, 6, 12, 13, 14, 22 or 23" in the second line and inserting in lieu thereof "4, 5, 6, 9, 9a, 9b, 11, 12, 13, 14, 16, 22 or 23". ^{s. 38 (1) (c), amended}

(4) Clause *a* of subsection 6 of the said section 38 is amended by striking out "of" where it occurs the first time in the seventh line and inserting in lieu thereof "to". ^{s. 38 (6) (a), amended}

(5) Clause *b* of subsection 9 of the said section 38, as amended by the Statutes of Ontario, 1972, chapter 1, section 63, subsection 6, is further amended by inserting after "greatest" in the third line "equalized" and by striking out "according to the last revised assessment roll as adjusted by the application of the equalization factor based on such assessment provided by the Minister" in the fifth, sixth, seventh and eighth lines and in the amendment of 1972. ^{s. 38 (9) (b), amended}

s. 38 (9) (c),
amended

(6) Clause *c* of subsection 9 of the said section 38, as amended by the Statutes of Ontario, 1972, chapter 1, section 63, subsection 7, is further amended by inserting after "greatest" in the third line "equalized" and by striking out "according to the last revised assessment roll as adjusted by the application of the equalization factor based on such assessment provided by the Minister" in the fifth, sixth, seventh and eighth lines and in the amendment of 1972.

s. 38,
amended

(7) The said section 38, as amended by the Statutes of Ontario, 1972, chapter 1, section 63, subsections 5 to 9, is further amended by adding thereto the following subsections:

Distribution
of members
within
combined
municipi-
palities

(9a) Where two or more county municipalities that are not in a regional municipality are combined under subsection 9 for the election of two or more members by the public school electors and one of the combined municipalities has a population in excess of 75,000, the clerks of such combined municipalities may determine that a portion of a county municipality that is so combined be attached to one or more of the other county municipalities in the combination of municipalities for the election of one or two members and, where the clerks of such combined municipalities so determine,

(a) the number of members to be elected by the public school electors of the combined municipalities shall be apportioned among the combined areas formed under this subsection and the remainder, if any, of such combined municipalities, as nearly as is practicable in the proportion that the equalized residential and farm assessment of the property rateable for public school purposes in each such combined area and in the remainder, if any, of such combined municipalities, bears to the total equalized residential and farm assessment of the property rateable for public school purposes in the combined municipalities; and

(b) where the remainder of a county municipality is to be represented by two or more members, subsections 19 and 20 shall apply *mutatis mutandis* in respect of such remainder.

Appeal from
determina-
tion under
subs. 9a

(9b) Where the determination made under subsection 9a apportions to a combined area or to the remainder of the combined municipalities a percentage of the total number of members to be elected by the public school

electors of the combined municipalities as determined under subsection 9 that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for public school purposes in the combined area or the remainder of the combined municipalities, as the case may be, is of the total equalized residential and farm assessment of the property rateable for public school purposes in the combined municipalities, the council of a municipality all or part of which is in the combined area or part of which forms such remainder, as the case may be, may, within fifteen days after such determination has been made, appeal the determination to the judge who shall either reapportion the number of members in accordance with clause *a* of subsection 9*a* or, where he determines that the determination was made in accordance with such clause, confirm the determination, and his decision is final.

(8) Subsection 10 of the said section 38, is amended by ^{s. 38 (10), amended} striking out "Before the 1st day of September in each year in which an election is to be held, the determination under subsection 9 shall be made if" in the first, second and third lines and inserting in lieu thereof "The determination under subsection 9 shall be made before the 1st day of September, and the determination under subsection 9*a* may be made before the 15th day of September, in each year in which an election is to be held if".

(9) Subsection 11 of the said section 38, as amended by ^{s. 38 (11), re-enacted} the Statutes of Ontario, 1972, chapter 1, section 63, subsection 8, is repealed and the following substituted therefor:

(11) Where the determination under subsection 9 is not ^{Where judge to make determination} made before the 1st day of September, the clerk of the county municipality or of the organized district municipality, as the case may be, having the greatest equalized residential and farm assessment for public school purposes in the school division, shall refer the matter to the judge who shall make the determination before the 1st day of October in accordance with subsection 12.

(10) Subsection 16 of the said section 38, as amended by the ^{s. 38 (16), amended} Statutes of Ontario, 1972, chapter 1, section 63, subsection 9, is further amended by inserting after "greatest" in the third line "equalized" and by striking out "according to the last revised assessment roll as adjusted by the application of the equalization factor, based on such assessment, provided by the Minister", in the fifth, sixth and seventh lines and in the amendment of 1972.

s. 38 (21),
re-enacted

(11) Subsection 21 of the said section 38 is repealed and the following substituted therefor:

Election by
public school
electors in
county and
district muni-
cipalities

(21) Where two or more county or district municipalities are combined for the election of one or more members, such member or members shall, except where a determination is made under subsection 9*a*, be elected by a general vote of the public school electors of the combined municipalities, and where, under subsection 9*a* or 9*b*, a portion of a county municipality is attached to one or more other county municipalities for the election of one or two members or the remainder of the combined municipalities comprises parts of two or more municipalities, the number of members apportioned thereto shall be elected by a general vote of the public school electors of such combined area or remainder, and,

(*a*) the nominations in each case shall be conducted by the returning officer of the municipality having the greatest equalized residential and farm assessment for public school purposes of any municipality all of which is in the area for which the member or members are to be elected, who shall send to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

(*b*) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause *a*, who shall prepare the final summary and announce the vote.

s. 38,
amended

(12) The said section 38 is further amended by adding thereto the following subsection:

Distribution
of members
within com-
bined muni-
cipalities

(23*a*) Where two or more county municipalities are combined for the election of two or more members to be elected by separate school supporters, subsections 9*a* and 9*b* apply *mutatis mutandis* to such combination of municipalities except that the equalized residential and farm assessments of the property rateable for separate school purposes shall be used in all the determinations.

(13) Clause *c* of subsection 25 of the said section 38 is amended by striking out "in the school division, in the county or district municipalities in the school division or in the combined area, as the case may be" in the fourth, fifth, sixth and seventh lines, and inserting in lieu thereof "of any municipality all of which is in the area for which the member or members are to be elected". s. 38 (25) (c),
amended

(14) Subsections 27 to 34 of the said section 38 are repealed and the following substituted therefor: s. 38 (27),
re-enacted;
s. 38 (28-34),
repealed

(27) The election of members of a divisional board shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality. Elections

12.—(1) Clause *a* of subsection 3 of section 39 of the said Act is amended by striking out "day on which the nomination meeting for a new election is to be held unless before the opening of the nomination meeting" in the tenth, eleventh and twelfth lines and inserting in lieu thereof "last day for filing nominations for a new election unless before the closing of nominations". s. 39 (3) (a),
amended

(2) Subsection 3 of the said section 39 is amended by adding "or" at the end of clause *b*, by striking out "or" at the end of clause *c* and by striking out clause *d*. s. 39 (3),
amended

13. Sections 40 and 41 of the said Act are repealed. ss. 40, 41,
repealed

14. Section 42 of the said Act is amended by adding thereto the following subsection: s. 42,
amended

(5) Notwithstanding the provisions of this section, a divisional board may require that an election be held to fill a vacancy on the board and, where an election is held, the provisions of *The Municipal Elections Act, 1972*, c. ... shall apply. Election to
fill a
vacancy
1972, c. ...

15.—(1) Subsection 1 of section 44 of the said Act is amended by adding at the end thereof "for a supervisory officer". s. 44 (1),
amended

(2) Subsection 2 of the said section 44 is amended by adding at the end thereof "for a supervisory officer". s. 44 (2),
amended

16.—(1) Clauses *a*, *b*, *c*, *d* and *e* of subsection 2 of section 62 of the said Act are repealed and the following substituted therefor: s. 62 (2) (a, b),
re-enacted;
s. 62 (c-e),
repealed

- (a) that is more accessible to the pupil than any secondary school in the secondary school district of which he is a resident pupil ;
- (b) to take, for the purpose of obtaining the secondary school honour graduation diploma, a subject or subjects not available in the secondary school district of which he is a resident pupil but required by the pupil for admission to any university or teacher-training course or for entry into any trade, profession or calling.

s. 62 (6),
amended

(2) Subsection 6 of the said section 62 is amended by striking out “c, d, e” in the first line.

s. 64,
amended

17. Section 64 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 68, section 6, is further amended by adding thereto the following subsection:

Admission
of adult
resident
who is not
a resident
pupil

- (2) Notwithstanding any general or special Act, a person who resides in a secondary school district and who, except as to residence, is qualified to be a resident pupil in another secondary school district shall be admitted, without the payment of a fee, to a secondary school operated by the board of the secondary school district in which he resides if,

(a) the person has attained the age of eighteen years and has been promoted or transferred to a secondary school ; and

(b) the appropriate supervisory officer certifies that there is adequate accommodation in the secondary school.

s. 65 (1),
amended

18. Subsection 1 of section 65 of the said Act is amended by striking out “pupil’s parent or guardian” in the fifth line and inserting in lieu thereof “pupil where the pupil has attained the age of eighteen years, or by his parent or guardian where the pupil has not attained the age of eighteen years”.

Commence-
ment

19.—(1) This Act, except sections 1, 4, 7, 8, 9 and 17 comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1 and 17 come into force on the 1st day of September, 1972.

Idem

(3) Sections 4, 7, 8 and 9 come into force on the 1st day of January, 1973.

Short title

20. This Act may be cited as *The Secondary Schools and Boards of Education Amendment Act, 1972*.

An Act to amend
The Secondary Schools and
Boards of Education Act

1st Reading

May 15th, 1972

2nd Reading

May 25th, 1972

3rd Reading

June 21st, 1972

THE HON. T. L. WELLS
Minister of Education

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Separate Schools Act

THE HON. T. L. WELLS
Minister of Education

TORONTO

PRINTED AND PUBLISHED BY WILLIAM KINMOND, QUEEN'S PRINTER AND PUBLISHER

EXPLANATORY NOTES

SECTION 1. Certain definitions are repealed as they are now included in section 1 of *The Schools Administration Act*.

SECTION 2. The amendment makes it clear that this section applies only to the establishment of a separate school zone whose centre is outside a designated area.

SECTION 3. The amendments are to clarify who is to receive the notice indicating the results of a meeting to establish a separate school.

An Act to amend The Separate Schools Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clauses *b* and *c* of section 17 of *The Separate Schools Act*, being chapter 430 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 64, subsection 1, are repealed. s. 17 (*b, c*),
repealed

(2) Clauses *e* and *h* of the said section 17 are repealed. s. 17 (*e, h*),
repealed

2. Section 18 of the said Act is repealed and the following s. 18,
re-enacted substituted therefor:

18. Not fewer than five heads of families, being Roman Catholics and being householders or freeholders resident within, Meeting to
establish
separate
school

(a) one former school section of a township; or

(b) a city, town or village,

that is not within an area designated by the regulations made under subsection 2 of section 81, may, for the purpose of the election of trustees, convene a public meeting of persons desiring to establish a separate school therein.

3.—(1) Subsection 1 of section 21 of the said Act is s. 21 (1),
re-enacted repealed and the following substituted therefor:

(1) Notice in writing of the holding of the meeting referred to in section 20 and of the election of trustees shall be delivered by one of the trustees so elected to the clerk of the municipality and to the secretary of the board of public school trustees for the area in which the separate school is about to be established designating by name, occupation and residence each of the persons elected as trustees. Notice of
meeting and
election

s. 21 (2),
amended

(2) Subsection 2 of the said section 21 is amended by striking out "trustees" in the third line and inserting in lieu thereof "trustee".

s. 22 (1),
amended

4. Subsection 1 of section 22 of the said Act is amended by striking out "In unorganized townships and in any part of Ontario not surveyed into townships" in the first and second lines and inserting in lieu thereof "In territory without municipal organization that is not within an area designated by the regulations made under subsection 2 of section 81".

s. 34 (15),
re-enacted

5. Subsection 15 of section 34 of the said Act is repealed and the following substituted therefor:

School sites
for combined
board

(15) A board of a combined separate school zone may, without the approval of the supporters, acquire a school site that is within the combined separate school zone.

s. 38 (1),
amended

6. Subsection 1 of section 38 of the said Act is amended by striking out "with one-half of the trustees retiring each year" in the third and fourth lines.

s. 39 (1),
amended

7. Subsection 1 of section 39 of the said Act is amended by striking out "one of whom shall retire each year" in the third line and by adding at the end thereof "for a term of two years".

s. 41,
repealed

8. Section 41 of the said Act is repealed.

s. 44 (4) (b, c),
repealed

9.—(1) Clauses *b* and *c* of subsection 4 of section 44 of the said Act are repealed.

s. 44 (4) (e),
amended

(2) Clause *e* of subsection 4 of the said section 44 is amended by striking out "*The Municipal Act* with respect to elections, except with respect to the nomination of candidates" in the first, second and third lines and inserting in lieu thereof "*The Municipal Elections Act, 1972*".

s. 48,
repealed

10. Section 48 of the said Act is repealed.

s. 50 (1) (e),
repealed

11. Clause *e* of subsection 1 of section 50 of the said Act is repealed.

s. 51,
repealed

12. Section 51 of the said Act is repealed.

s. 52,
amended

13. Section 52 of the said Act is amended by adding thereto the following subsection:

Election
to fill
vacancy

(6) Notwithstanding the provisions of subsections 3, 4 and 5, an urban separate school board or a combined separate school board that has passed a

SECTION 4. See note to section 2 of this Bill.

SECTION 5. The amendment is to make it clear that the school site may be acquired anywhere in the combined separate school zone but not outside it.

SECTION 6. The amendment is to eliminate staggered elections in urban separate school boards.

SECTION 7. The amendment is to eliminate staggered elections in urban separate school boards.

SECTION 8. The amendment is to eliminate staggered elections in urban separate school boards.

SECTION 9. The amendments are to conform to *The Municipal Elections Act, 1972*.

SECTION 10. This section is no longer required in view of *The Municipal Elections Act, 1972*.

SECTION 11. The provisions for acquiring school sites and building school buildings are now contained in section 61 of *The Schools Administration Act*.

SECTION 12. Complementary to the amendment to section 36 of *The Schools Administration Act* dealing generally with agreements between boards

SECTION 13. The new subsection 6 permits a vacancy to be filled by election.

SECTION 14. The amendment provides for expenditures for permanent improvements and for reserve funds on the same basis as for public schools when separate school rates are collected by a municipal council.

SECTION 15. The amendment makes it clear that the authority of a separate school board to impose and levy school rates is in respect of the estimates adopted by the board.

SECTION 16. Section 72 is no longer appropriate as the investment of sinking fund moneys is now provided for in section 73 (5) and the section of *The Municipal Act* to which section 72 refers has been repealed.

SECTION 17. The amendment provides that the investment of moneys to repay sinking fund debentures is to be in accordance with the provisions of *The Municipal Act* respecting municipal sinking fund debentures.

resolution under section 44 may require that an election be held to fill a vacancy on the board and, where an election is held, the provisions of *The Municipal Elections Act, 1972* that pertain to an election to fill a vacancy shall apply. ^{1972, c....}

14. Section 65 of the said Act is amended by striking out “and” at the end of clause *c*, by adding “and” at the end of clause *d* and by adding thereto the following clause: ^{s. 65, amended}

- (e) may provide for expenditures for permanent improvements and for an allocation to a reserve fund provided that, where separate school rates or taxes are collected by a municipal council, the total of expenditures for permanent improvements referred to in subparagraphs i, ii, iii and vii of paragraph 18 of subsection 2 of section 1 of *The Schools Administration Act*, together with any sum allocated to a reserve fund, shall not exceed a sum calculated at one mill in the dollar upon the total equalized assessment of the property rateable for separate school purposes within the area of jurisdiction of the board in the manner provided for public school purposes in respect of a divisional board of education in clause *d* of subsection 1 of section 31 of *The Secondary Schools and Boards of Education Act*, which clause shall apply *mutatis mutandis*. ^{R.S.O. 1970, cc. 424, 425}

15. Subsection 1 of section 66 of the said Act is amended by inserting after “may” in the first line “in respect of the estimates adopted under section 65”. ^{s. 66 (1), amended}

16. Section 72 of the said Act is repealed. ^{s. 72, repealed}

17. Subsection 5 of section 73 of the said Act is repealed and the following substituted therefor: ^{s. 73 (5), re-enacted}

- (5) Where the debt is not payable by instalments, the board shall levy in each year during the currency of the debt in addition to the amount required to pay the interest falling due in such year a sum such that the aggregate amount so levied during the currency of the debt, with the estimated interest on the investments thereof, will be sufficient to discharge the debt when it becomes payable. ^{Sinking fund}

- (5a) The sum referred to in subsection 5 shall be deposited with a chartered bank or a trust company that is registered under *The Loan and Trust Corporations Act*, and such sum and any income resulting therefrom ^{Investment of fund} ^{R.S.O. 1970, c. 254}

R.S.O. 1970,
c. 284

shall be invested by such bank or trust company in the manner provided in *The Municipal Act* for sinking funds, and subsections 4 to 9 of section 291 of *The Municipal Act* apply *mutatis mutandis* except that reference therein to the Ministry of Treasury, Economics and Intergovernmental Affairs shall be deemed to be a reference to the Ministry of Education.

s. 80 (1) (j),
re-enacted

18.—(1) Clause *j* of subsection 1 of section 80 of the said Act is repealed and the following substituted therefor:

1972, c.

(j) "separate school supporter" in respect of an area for which one or more trustees of a county or district combined separate school board are to be elected, means a separate school elector under *The Municipal Elections Act, 1972* who is qualified to vote at the election of such trustee or trustees in such area.

s. 80 (4),
amended

(2) Subsection 4 of the said section 80 is amended by striking out "and the County of York does not include the area municipalities as defined in *The Municipality of Metropolitan Toronto Act*" in the second, third and fourth lines.

s. 80 (7),
amended

(3) Subsection 7 of the said section 80 is amended by striking out "the preparation of a voters' list and the election of members of a district combined separate school board under *The Municipal Act* and *The Voters' Lists Act*, which apply *mutatis mutandis*" in the ninth, tenth, eleventh and twelfth lines and inserting in lieu thereof "the election of members of a district combined separate school board under *The Municipal Elections Act, 1972*".

s. 81 (3),
amended

19. Subsection 3 of section 81 of the said Act is amended by inserting after "21" in the second line "or 22".

ss. 81a, 81b,
enacted

20. The said Act is amended by adding thereto the following sections:

Meeting to
establish
separate
school in
designated
areas

81a.—(1) Not fewer than five heads of families, being Roman Catholics and being householders or freeholders resident within one former school section in an area designated by the regulations made under subsection 2, may convene a public meeting of persons desiring to establish a separate school zone in such section.

Establishment
of zone

(2) Where such a meeting is held, the persons present,

(a) shall elect a chairman and a secretary for the meeting;

SECTION 18.—Subsection 1. Separate school supporter is redefined in conformity with *The Municipal Elections Act, 1972*.

Subsection 2. The amendment eliminates an old reference to the County of York that is no longer appropriate.

Subsection 3. Complementary to *The Municipal Elections Act, 1972*.

SECTION 19. The amendment is made to add a reference to a separate school zone established in territory without municipal organization.

SECTION 20. Provision is made in section 81*a* for the enlargement of a county or district combined separate school zone by the establishment of a new separate school zone within the designated area.

Section 81*b* permits a county or district combined separate school board to acquire a school site at any location in the designated area and, with the approval of the Minister, at a location outside the designated area.

(b) may pass a motion to establish a new separate school zone, in which case they shall determine the centre of the zone; and

(c) where such a motion is passed and a centre determined, shall require the chairman to send a copy of the motion to,

(i) the Minister,

(ii) the secretary of the county or district combined separate school board,

(iii) the secretary of the divisional board of education affected, and

(iv) the appropriate municipal assessor,

and the zone so established shall forthwith become a part of the county or district combined separate school zone.

(3) Notwithstanding section 18, no trustees shall be elected at the meeting. Trustees not elected at meeting

81b.—(1) Where a school site that is acquired by a county or district combined separate school board is not within the county or district combined separate school zone and the board operates a separate school on such site, a separate school zone having its centre as provided in subsection 2 of section 54 is deemed to have been established under subsection 2 of section 81a on the date on which final approval in respect of the construction or purchase of the school is given by the Minister for purposes of legislative grant. Zone deemed formed

(2) A separate school board under this Part may, with the approval of the Minister, acquire by purchase or lease a school site that is outside the area designated in respect of such board by regulation made under subsection 2 of section 81, and may operate thereon a separate school, but a separate school board shall not expropriate any such site. School outside designated area

(3) Notwithstanding section 54, the operation of a separate school on a school site acquired under subsection 2 does not, *ipso facto*, establish a separate school zone with a centre at such site. Zone not established

s. 85 (2),
re-enacted

21. Subsection 2 of section 85 of the said Act is repealed and the following substituted therefor:

Name of
county com-
bined board

- (2) A county combined separate school board that has jurisdiction in an area that includes two or more counties, or one county and a defined city as defined in subsection 1 of section 27 of *The Secondary Schools and Boards of Education Act*, is a corporation by the name of "The County Roman Catholic Separate School Board" (*inserting the names of the counties, the name of the city and of the county or a name selected by the board and approved by the Minister*).

s. 90 (1) (a),
re-enacted

22.—(1) Clause *a* of subsection 1 of section 90 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 64, subsection 2, is repealed and the following substituted therefor:

- (a) "equalized residential and farm assessment" means the residential and farm assessment referred to in clause *b*, as adjusted by the assessment equalization factor applicable thereto that is provided by the Minister.

s. 90,
amended

(2) The said section 90 is amended by adding thereto the following subsections:

Distribution
of members
within
combined
municipalities

- (8a) Where two or more county municipalities that are not in a regional municipality are combined under subsection 8 for the election of two or more trustees and one of the combined municipalities has a population in excess of 75,000, the clerks of such combined municipalities may, before the 15th day of September in any year in which a determination is made under subsection 8, determine that a portion of a county municipality that is so combined be attached to one or more of the other county municipalities in the combination of municipalities for the election of one or two trustees and, where the clerks of such combined municipalities so determine,

- (a) the number of trustees to be elected in the combined municipalities shall be apportioned among the combined areas formed under this subsection and the remainder, if any, of the county municipality, as nearly as is practicable in the proportion that the equalized residential and farm assessment of the prop-

SECTION 21. The amendment permits the name of a defined city to be included in the corporate name of a county combined separate school board.

SECTION 22.—Subsection 1. The definition is amended for clarification and to refer to the equalization factor provided by the Minister.

Subsection 2. The new subsection 8*a* permits municipalities combined for the election of two or more trustees to be divided into areas for the election of one or more trustees in each such area. The new subsection 8*b* provides for an appeal to the judge by the council of a municipality directly affected where the division of the combined municipalities under subsection 8*a* is not in proportion to the residential and farm assessment rateable for separate school purposes.

Subsection 3. The amendment is for clarification.

Subsection 4. Complementary to the new subsections 8a and 8b.

erty rateable for separate school purposes in each such combined area and in the remainder, if any, of the county municipality, bears to the total equalized residential and farm assessment of the property rateable for separate school purposes in the combined municipalities; and

- (b) where the remainder of the county municipality is to be represented by two or more trustees, subsections 17 and 18 shall apply *mutatis mutandis* in respect of such remainder.

- (8b) Where the determination made under subsection 8⁷ Appeal from determination under subs. 8a apportions to a combined area or to the remainder of a county municipality a percentage of the total number of trustees to be elected in the combined municipalities as determined under subsection 8 that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for separate school purposes in the combined area or in the remainder of the county municipality, as the case may be, is of the total equalized residential and farm assessment of the property rateable for separate school purposes in the combined municipalities, the council of a municipality all or part of which is in the combined area or part of which forms such remainder, as the case may be, may, within fifteen days after notice of such determination has been sent, appeal the determination to the judge who shall either reapportion the number of trustees in accordance with clause *a* of subsection 8a or, where he determines that the determination was made in accordance with such clause, confirm the determination, and his decision is final.

- (3) Subsection 10 of the said section 90 as amended by s. 90 (10), amended inserting after "the" where it occurs the second time in the fifth line "county".

- (4) Subsection 19 of the said section 90 is repealed and s. 90 (19), re-enacted the following substituted therefor:

- (19) Where two or more county or district municipalities Elections in combined areas are combined for the election of one or more trustees, such trustee or trustees shall, except where a determination is made under subsection 8a, be elected by a general vote of the separate school supporters of the combined municipalities, and where, under sub-

section 8a or 8b, a portion of a county municipality is attached to one or more other county municipalities for the election of one or two trustees, such trustee or trustees shall be elected by a general vote of the separate school supporters of such combined area, and

(a) the nominations in each case shall be conducted by the returning officer of the municipality having the greatest equalized residential and farm assessment for separate school purposes of any municipality all of which is in the area for which the trustee or trustees are to be elected, who shall send to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

(b) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause a, who shall prepare the final summary and announce the vote.

s. 90 (21),
re-enacted,
s. 90 (22-26),
repealed

(5) Subsections 21 to 26 of the said section 90 are repealed and the following substituted therefor:

Elections

(21) The election of members of a county or district combined separate school board shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality.

s. 91,
amended

23. Section 91 of the said Act is amended by adding thereto the following subsection:

Election
to fill
vacancy

(6) Notwithstanding subsection 5, a separate school board under this Part may require that an election be held to fill a vacancy on the board and, where an election is held, the provisions of *The Municipal Elections Act, 1972* that pertain to an election to fill a vacancy shall apply.

1972, c.

s. 93 (1),
amended

24.—(1) Subsection 1 of section 93 of the said Act is amended by adding at the end thereof “for a supervisory officer”.

s. 93 (2),
amended

(2) Subsection 2 of the said section 93 is amended by adding at the end thereof “for a supervisory officer”.

Subsection 5. The provisions in subsections 21 to 26 are now contained in *The Municipal Elections Act, 1972* and are therefore repealed. The new subsection 21 is complementary to the new Act.

SECTION 23. The amendment is to permit a vacancy to be filled by election.

SECTION 24. The amendments are for clarification.

25.—(1) This Act, except section 14, comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>

(2) Section 14 comes into force on the 1st day of January, 1973. ^{Idem}

26. This Act may be cited as *The Separate Schools Amendment Act, 1972*. ^{Short title}

An Act to amend
The Separate Schools Act

1st Reading

May 15th, 1972

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Education

(Government Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Separate Schools Act

THE HON. T. L. WELLS
Minister of Education

(Reprinted as amended by the Social Development Committee)

EXPLANATORY NOTES

SECTIONS 1, 16, 17, 18, 19, 20 AND 23. The amendments are required to bring the Act into line with the provisions respecting enumeration in *The Municipal Elections Act, 1972* and *The Assessment Act*.

SECTION 2. Certain definitions are repealed as they are now included in section 1 of *The Schools Administration Act*.

SECTION 3. The amendment makes it clear that this section applies only to the establishment of a separate school zone whose centre is outside a designated area.

SECTION 4. The amendments are to clarify who is to receive the notice indicating the results of a meeting to establish a separate school.

An Act to amend The Separate Schools Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 4 of section 7 of *The Separate Schools Act*, ^{s. 7 (4), amended} being chapter 430 of the Revised Statutes of Ontario, 1970, is amended by striking out "assessor" in the first line and inserting in lieu thereof "clerk".

2.—(1) Clauses *b* and *c* of section 17 of the said Act, ^{s. 17 (b, c), repealed} as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 64, subsection 1, are repealed.

(2) Clauses *e* and *h* of the said section 17 are repealed. ^{s. 17 (e, h), repealed}

3. Section 18 of the said Act is repealed and the following ^{s. 18, re-enacted} substituted therefor:

18. Not fewer than five heads of families, being Roman Catholics and being householders or freeholders resident within, ^{Meeting to establish separate school}

(a) one former school section of a township; or

(b) a city, town or village,

that is not within an area designated by the regulations made under subsection 2 of section 81, may, for the purpose of the election of trustees, convene a public meeting of persons desiring to establish a separate school therein.

4.—(1) Subsection 1 of section 21 of the said Act is ^{s. 21 (1), re-enacted} repealed and the following substituted therefor:

(1) Notice in writing of the holding of the meeting referred to in section 20 and of the election of trustees shall be delivered by one of the trustees so elected to the clerk of the municipality and to the secretary of the board ^{Notice of meeting and election}

of public school trustees for the area in which the separate school is about to be established designating by name and residence each of the persons elected as trustees.

s. 21 (2),
amended

(2) Subsection 2 of the said section 21 is amended by striking out "trustees" in the third line and inserting in lieu thereof "trustee".

s. 22 (1),
amended

5. Subsection 1 of section 22 of the said Act is amended by striking out "In unorganized townships and in any part of Ontario not surveyed into townships" in the first and second lines and inserting in lieu thereof "In territory without municipal organization that is not within an area designated by the regulations made under subsection 2 of section 81".

s. 34 (15),
re-enacted

6. Subsection 15 of section 34 of the said Act is repealed and the following substituted therefor:

School sites
for combined
board

(15) A board of a combined separate school zone may, without the approval of the supporters, acquire a school site that is within the combined separate school zone.

s. 38 (1),
amended

7. Subsection 1 of section 38 of the said Act is amended by striking out "with one-half of the trustees retiring each year" in the third and fourth lines.

s. 39 (1),
amended

8. Subsection 1 of section 39 of the said Act is amended by striking out "one of whom shall retire each year" in the third line and by adding at the end thereof "for a term of two years".

s. 41,
repealed

9. Section 41 of the said Act is repealed.

s. 44 (4) (b, c),
repealed

10.—(1) Clauses *b* and *c* of subsection 4 of section 44 of the said Act are repealed.

s. 44 (4) (e),
amended

(2) Clause *e* of subsection 4 of the said section 44 is amended by striking out "*The Municipal Act* with respect to elections, except with respect to the nomination of candidates" in the first, second and third lines and inserting in lieu thereof "*The Municipal Elections Act, 1972*".

s. 46a,
enacted

11. The said Act is amended by adding thereto the following section:

Residents
other than
supporters
entitled to
vote
1953, c. 119
1972, c. ...

46a. Notwithstanding the provisions of this or any other Act including *The Metropolitan Separate School Board Act, 1953*, a Roman Catholic who is not an owner or tenant as defined in *The Municipal Elections Act, 1972* but who,

SECTION 5. See note to section 3 of this Bill.

SECTION 6. The amendment is to make it clear that the school site may be acquired anywhere in the combined separate school zone but not outside it.

SECTION 7. The amendment is to eliminate staggered elections in urban separate school boards.

SECTION 8. The amendment is to eliminate staggered elections in urban separate school boards.

SECTION 9. The amendment is to eliminate staggered elections in urban separate school boards.

SECTION 10. The amendments are to conform to *The Municipal Elections Act, 1972*.

SECTION 11. At present, persons who are separate school supporters and persons who are Roman Catholics and the wives or husbands of such supporters are separate school electors. The new section 46a will permit persons who are Roman Catholics and qualified to vote at elections but are not owners or tenants of land to become separate school electors.

SECTION 12. This section is no longer required in view of *The Municipal Elections Act, 1972*.

SECTION 13. The provisions for acquiring school sites and building school buildings are now contained in section 61 of *The Schools Administration Act*.

SECTION 14. Complementary to the amendment to section 36 of *The Schools Administration Act* dealing generally with agreements between boards

SECTION 15. The new subsection 6 permits a vacancy to be filled by election.

SECTIONS 16, 17, 18, 19 AND 20. See note to section 1.

- (a) is a Canadian citizen or other British subject;
- (b) is of the full age of eighteen years; and
- (c) resides within a separate school zone,

and who wishes to be a separate school elector at an election may cause his name to be entered on the preliminary list of electors of the polling subdivision in which he resides as a separate school elector, and for such purpose is entitled to be enumerated as such and to have entered opposite his name on the preliminary list of electors for the polling subdivision in which he resides that he is a separate school elector and, where the name of such person appears on the polling list, he shall be deemed to be a separate school elector for the purpose of voting at such election.

12. Section 48 of the said Act is repealed.

s. 48,
repealed

13. Clause *e* of subsection 1 of section 50 of the said Act is repealed.

s. 50 (1) (e),
repealed

14. Section 51 of the said Act is repealed.

s. 51,
repealed

15. Section 52 of the said Act is amended by adding thereto the following subsection:

s. 52,
amended

- (6) Notwithstanding the provisions of subsections 3, 4 and 5, an urban separate school board or a combined separate school board that has passed a resolution under section 44 may require that an election be held to fill a vacancy on the board and, where an election is held, the provisions of *The Municipal Elections Act, 1972* that pertain to an election to fill a vacancy shall apply.

Election
to fill
vacancy

1972, c....

16. Subsection 4 of section 53 of the said Act is repealed and the following substituted therefor:

s. 53 (4),
re-enacted

- (4) Any person who, if he were resident in a separate school zone, would be entitled to be a supporter of a separate school and who is the owner of unoccupied land situate in the separate school zone, may, on or before the 30th day of September in any year, by written notice to the clerk of the municipality in which the land is situate or, where the land is not in a municipality, to the secretaries of the public and separate school boards, direct that all such land in

Rights of
non-residents
to be assessed
for separate
school

the separate school zone shall be assessed for the purposes of the separate school.

s. 60 (5),
amended

17. Subsection 5 of section 60 of the said Act is amended by striking out "assessor" in the first line and inserting in lieu thereof "clerk".

s. 61 (1),
amended

18. Subsection 1 of section 61 of the said Act is amended by striking out "assessment roll that through mistake or inadvertence a ratepayer has been entered on the roll" in the second and third lines and inserting in lieu thereof "list supplied to the clerk under section 23 of *The Assessment Act* that through mistake or inadvertence a ratepayer has been entered on the list".

s. 63 (1),
amended

19. Subsection 1 of section 63 of the said Act is amended by striking out "Where land is assessed against both owner and occupant, or the owner and tenant, the occupant or tenant" in the first and second lines and inserting in lieu thereof "The occupant or tenant of land".

s. 64 (2),
amended

20.—(1) Subsection 2 of section 64 of the said Act is amended by striking out "assessor" in the first line and inserting in lieu thereof "clerk" and by striking out "assessment" in the second line and inserting in lieu thereof "collector's".

s. 64 (5),
amended

(2) Subsection 5 of the said section 64 is amended by striking out "an assessment" in the third and fourth lines and inserting in lieu thereof "a collector's".

s. 64 (6),
amended

(3) Subsection 6 of the said section 64 is amended by striking out "assessor shall in each year, before the return of the assessment roll" in the first and second lines and inserting in lieu thereof "clerk shall in each year, before the final revision of the list supplied to the clerk under section 23 of *The Assessment Act*".

s. 65,
amended

21. Section 65 of the said Act is amended by striking out "and" at the end of clause *c*, by adding "and" at the end of clause *d* and by adding thereto the following clause:

- (e) may provide for expenditures for permanent improvements and for an allocation to a reserve fund provided that, where separate school rates or taxes are collected by a municipal council, the total of expenditures for permanent improvements referred to in subparagraphs i, ii, iii and vii of paragraph 18 of subsection 2 of section 1 of *The Schools Administration Act*, together with any sum allocated to

SECTION 21. The amendment provides for expenditures for permanent improvements and for reserve funds on the same basis as for public schools when separate school rates are collected by a municipal council.

SECTION 22. The amendment makes it clear that the authority of a separate school board to impose and levy school rates is in respect of the estimates adopted by the board.

SECTION 23. See note to section 1.

SECTION 24. Section 72 is no longer appropriate as the investment of sinking fund moneys is now provided for in section 73 (5) and the section of *The Municipal Act* to which section 72 refers has been repealed.

SECTION 25. The amendment provides that the investment of moneys to repay sinking fund debentures is to be in accordance with the provisions of *The Municipal Act* respecting municipal sinking fund debentures.

SECTION 26.—Subsection 1. Separate school supporter is redefined in conformity with *The Municipal Elections Act, 1972*.

a reserve fund, shall not exceed a sum calculated at one mill in the dollar upon the total equalized assessment of the property rateable for separate school purposes within the area of jurisdiction of the board in the manner provided for public school purposes in respect of a divisional board of education in clause *d* of subsection 1 of section 31 of *The Secondary Schools and Boards of Education Act*, which clause shall apply *mutatis mutandis*.

22. Subsection 1 of section 66 of the said Act is amended ^{s. 66 (1), amended} by inserting after "may" in the first line "in respect of the estimates adopted under section 65".

23. Section 70 of the said Act is amended by striking out ^{s. 70, amended} "appearing upon the assessment roll for the current year who have given the notice required by section 53" in the fourth and fifth lines and inserting in lieu thereof "who are separate school supporters".

24. Section 72 of the said Act is repealed. ^{s. 72, repealed}

25. Subsection 5 of section 73 of the said Act is repealed ^{s. 73 (5), re-enacted} and the following substituted therefor:

(5) Where the debt is not payable by instalments, the ^{Sinking fund} board shall levy in each year during the currency of the debt in addition to the amount required to pay the interest falling due in such year a sum such that the aggregate amount so levied during the currency of the debt, with the estimated interest on the investments thereof, will be sufficient to discharge the debt when it becomes payable.

(5a) The sum referred to in subsection 5 shall be deposited ^{Investment of fund} with a chartered bank or a trust company that is registered under *The Loan and Trust Corporations Act*, and such sum and any income resulting therefrom shall be invested by such bank or trust company in the manner provided in *The Municipal Act* for ^{R.S.O. 1970, c. 254} sinking funds, and subsections 4 to 9 of section 291 of *The Municipal Act* apply *mutatis mutandis* except that reference therein to the Ministry of Treasury, Economics and Intergovernmental Affairs shall be deemed to be a reference to the Ministry of Education. ^{R.S.O. 1970, c. 284}

26.—(1) Clause *j* of subsection 1 of section 80 of the said ^{s. 80 (1) (j), re-enacted} Act is repealed and the following substituted therefor:

(j) "separate school supporter" in respect of an area for which one or more trustees of a county or district

1972, c. combined separate school board are to be elected, means a separate school elector under *The Municipal Elections Act, 1972* who is qualified to vote at the election of such trustee or trustees in such area.

s. 80 (4),
amended

(2) Subsection 4 of the said section 80 is amended by striking out "and the County of York does not include the area municipalities as defined in *The Municipality of Metropolitan Toronto Act*" in the second, third and fourth lines.

s. 80 (7),
amended

(3) Subsection 7 of the said section 80 is amended by striking out "the preparation of a voters' list and the election of members of a district combined separate school board under *The Municipal Act* and *The Voters' Lists Act*, which apply *mutatis mutandis*" in the ninth, tenth, eleventh and twelfth lines and inserting in lieu thereof "the election of members of a district combined separate school board under *The Municipal Elections Act, 1972*".

s. 81 (3),
amended

27. Subsection 3 of section 81 of the said Act is amended by inserting after "21" in the second line "or 22".

ss. 81a, 81b,
enacted

28. The said Act is amended by adding thereto the following sections:

Meeting to
establish
separate
school in
designated
areas

81a.—(1) Not fewer than five heads of families, being Roman Catholics and being householders or freeholders resident within one former school section in an area designated by the regulations made under subsection 2 of section 81, may convene a public meeting of persons desiring to establish a separate school zone in such section.

Establishment
of zone

(2) Where such a meeting is held, the persons present,

(a) shall elect a chairman and a secretary for the meeting;

(b) may pass a motion to establish a new separate school zone, in which case they shall determine the centre of the zone; and

(c) where such a motion is passed and a centre determined, shall require the chairman to send a copy of the motion to,

(i) the Minister,

(ii) the secretary of the county or district combined separate school board,

Subsection 2. The amendment eliminates an old reference to the County of York that is no longer appropriate.

Subsection 3. Complementary to *The Municipal Elections Act, 1972*.

SECTION 27. The amendment is made to add a reference to a separate school zone established in territory without municipal organization.

SECTION 28. Provision is made in section 81*a* for the enlargement of a county or district combined separate school zone by the establishment of a new separate school zone within the designated area.

Section 81*b* permits a county or district combined separate school board to acquire a school site at any location in the designated area and, with the approval of the Minister, at a location outside the designated area.

SECTION 29. The amendment permits the name of a defined city to be included in the corporate name of a county combined separate school board.

(iii) the secretary of the divisional board of education affected, and

(iv) the appropriate municipal assessor,

and the zone so established shall forthwith become a part of the county or district combined separate school zone.

- (3) Notwithstanding section 18, no trustees shall be elected at the meeting. Trustees not elected at meeting

81b.—(1) Where a school site that is acquired by a county or district combined separate school board is not within the county or district combined separate school zone and the board operates a separate school on such site, a separate school zone having its centre as provided in subsection 2 of section 54 is deemed to have been established under subsection 2 of section 81a on the date on which final approval in respect of the construction or purchase of the school is given by the Minister for purposes of legislative grant. Zone deemed formed

- (2) A separate school board under this Part may, with the approval of the Minister, acquire by purchase or lease a school site that is outside the area designated in respect of such board by regulation made under subsection 2 of section 81, and may operate thereon a separate school, but a separate school board shall not expropriate any such site. School outside designated area

- (3) Notwithstanding section 54, the operation of a separate school on a school site acquired under subsection 2 does not, *ipso facto*, establish a separate school zone with a centre at such site. Zone not established

29. Subsection 2 of section 85 of the said Act is repealed and the following substituted therefor: s. 85 (2), re-enacted

- (2) A county combined separate school board that has jurisdiction in an area that includes two or more counties, or one county and a defined city as defined in subsection 1 of section 27 of *The Secondary Schools and Boards of Education Act*, is a corporation by the name of "The County Roman Catholic Separate School Board" (*inserting the names of the counties, the name of the city and of the county or a name selected by the board and approved by the Minister*). Name of county combined board
R.S.O. 1970, c. 425

s. 90 (1) (a),
re-enacted

30.—(1) Clause *a* of subsection 1 of section 90 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 64, subsection 2, is repealed and the following substituted therefor:

- (a) “equalized residential and farm assessment” means the residential and farm assessment referred to in clause *b*, as adjusted by the assessment equalization factor applicable thereto that is provided by the Minister.

s. 90,
amended

(2) The said section 90 is amended by adding thereto the following subsections:

Distribution
of members
within
combined
municipalities

- (8a) Where two or more county municipalities that are not in a regional municipality are combined under subsection 8 for the election of two or more trustees and one of the combined municipalities has a population in excess of 75,000, the clerks of such combined municipalities may, before the 15th day of September in any year in which a determination is made under subsection 8, determine that a portion of a county municipality that is so combined be attached to one or more of the other county municipalities in the combination of municipalities for the election of one or two trustees and, where the clerks of such combined municipalities so determine,

- (a) the number of trustees to be elected in the combined municipalities shall be apportioned among the combined areas formed under this subsection and the remainder, if any, of the county municipality, as nearly as is practicable in the proportion that the equalized residential and farm assessment of the property rateable for separate school purposes in each such combined area and in the remainder, if any, of the county municipality, bears to the total equalized residential and farm assessment of the property rateable for separate school purposes in the combined municipalities; and

- (b) where the remainder of the county municipality is to be represented by two or more trustees, subsections 17 and 18 shall apply *mutatis mutandis* in respect of such remainder.

Appeal from
determination
under subs. 8a

- (8b) Where the determination made under subsection 8a apportions to a combined area or to the remainder

SECTION 30.—Subsection 1. The definition is amended for clarification and to refer to the equalization factor provided by the Minister.

Subsection 2. The new subsection 8*a* permits municipalities combined for the election of two or more trustees to be divided into areas for the election of one or more trustees in each such area. The new subsection 8*b* provides for an appeal to the judge by the council of a municipality directly affected where the division of the combined municipalities under subsection 8*a* is not in proportion to the residential and farm assessment rateable for separate school purposes.

Subsection 3. The amendment is for clarification.

Subsection 4. Complementary to the new subsections 8*a* and 8*b*.

of a county municipality a percentage of the total number of trustees to be elected in the combined municipalities as determined under subsection 8 that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for separate school purposes in the combined area or in the remainder of the county municipality, as the case may be, is of the total equalized residential and farm assessment of the property rateable for separate school purposes in the combined municipalities, the council of a municipality all or part of which is in the combined area or part of which forms such remainder, as the case may be, may, within fifteen days after notice of such determination has been sent, appeal the determination to the judge who shall either reapportion the number of trustees in accordance with clause *a* of subsection 8*a* or, where he determines that the determination was made in accordance with such clause, confirm the determination, and his decision is final.

(3) Subsection 10 of the said section 90 as amended by <sup>s. 90 (10),
amended</sup> inserting after "the" where it occurs the second time in the fifth line "county".

(4) Subsection 19 of the said section 90 is repealed and <sup>s. 90 (19),
re-enacted</sup> the following substituted therefor:

(19) Where two or more county or district municipalities <sup>Elections
in combined
areas</sup> are combined for the election of one or more trustees, such trustee or trustees shall, except where a determination is made under subsection 8*a*, be elected by a general vote of the separate school supporters of the combined municipalities, and where, under subsection 8*a* or 8*b*, a portion of a county municipality is attached to one or more other county municipalities for the election of one or two trustees, such trustee or trustees shall be elected by a general vote of the separate school supporters of such combined area, and

(*a*) the nominations in each case shall be conducted by the returning officer of the municipality having the greatest equalized residential and farm assessment for separate school purposes of any municipality all of which is in the area for which the trustee or trustees are to be elected, who shall send to the clerk of each municipality concerned, by registered mail

within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

- (b) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause *a*, who shall prepare the final summary and announce the vote.

s. 90 (21),
re-enacted,
s. 90 (22-26),
repealed

(5) Subsections 21 to 26 of the said section 90 are repealed and the following substituted therefor:

Elections

- (21) The election of members of a county or district combined separate school board shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality.

s. 91,
amended

31. Section 91 of the said Act is amended by adding thereto the following subsection:

Election
to fill
vacancy

- (6) Notwithstanding subsection 5, a separate school board under this Part may require that an election be held to fill a vacancy on the board and, where an election is held, the provisions of *The Municipal Elections Act, 1972* that pertain to an election to fill a vacancy shall apply.

1972, c.

s. 93 (1),
amended

32.—(1) Subsection 1 of section 93 of the said Act is amended by adding at the end thereof “for a supervisory officer”.

s. 93 (2),
amended

(2) Subsection 2 of the said section 93 is amended by adding at the end thereof “for a supervisory officer”.

Commence-
ment

33.—(1) This Act, except section 21, comes into force on the day it receives Royal Assent.

Idem

(2) Section 21 comes into force on the 1st day of January, 1973.

Short title

34. This Act may be cited as *The Separate Schools Amendment Act, 1972*.

Subsection 5. The provisions in subsections 21 to 26 are now contained in *The Municipal Elections Act, 1972* and are therefore repealed. The new subsection 21 is complementary to the new Act.

SECTION 31. The amendment is to permit a vacancy to be filled by election.

SECTION 32. The amendments are for clarification.

An Act to amend
The Separate Schools Act

1st Reading

May 15th, 1972

2nd Reading

May 25th, 1972

3rd Reading

THE HON. T. L. WELLS
Minister of Education

(Reprinted as amended by the
Social Development Committee)

BILL 127

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21 ELIZABETH II, 1972

An Act to amend The Separate Schools Act

THE HON. T. L. WELLS
Minister of Education

TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER AND PUBLISHER

An Act to amend The Separate Schools Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 4 of section 7 of *The Separate Schools Act*, s. 7 (4), being chapter 430 of the Revised Statutes of Ontario, 1970, is amended by striking out "assessor" in the first line and inserting in lieu thereof "clerk". ^{amended}

2.—(1) Clauses *b* and *c* of section 17 of the said Act, s. 17 (b, c), as re-enacted by the Statutes of Ontario, 1972, chapter 1, section 64, subsection 1, are repealed. ^{repealed}

(2) Clauses *e* and *h* of the said section 17 are repealed. <sup>s. 17 (e, h),
repealed</sup>

3. Section 18 of the said Act is repealed and the following s. 18, re-enacted substituted therefor:

18. Not fewer than five heads of families, being Roman Catholics and being householders or freeholders resident within, <sup>Meeting to
establish
separate
school</sup>

(a) one former school section of a township; or

(b) a city, town or village,

that is not within an area designated by the regulations made under subsection 2 of section 81, may, for the purpose of the election of trustees, convene a public meeting of persons desiring to establish a separate school therein.

4.—(1) Subsection 1 of section 21 of the said Act is s. 21 (1), re-enacted repealed and the following substituted therefor:

(1) Notice in writing of the holding of the meeting referred to in section 20 and of the election of trustees shall be delivered by one of the trustees so elected to the clerk of the municipality and to the secretary of the board <sup>Notice of
meeting and
election</sup>

of public school trustees for the area in which the separate school is about to be established designating by name and residence each of the persons elected as trustees.

s. 21 (2),
amended

(2) Subsection 2 of the said section 21 is amended by striking out "trustees" in the third line and inserting in lieu thereof "trustee".

s. 22 (1),
amended

5. Subsection 1 of section 22 of the said Act is amended by striking out "In unorganized townships and in any part of Ontario not surveyed into townships" in the first and second lines and inserting in lieu thereof "In territory without municipal organization that is not within an area designated by the regulations made under subsection 2 of section 81".

s. 34 (15),
re-enacted

6. Subsection 15 of section 34 of the said Act is repealed and the following substituted therefor:

School sites
for combined
board

(15) A board of a combined separate school zone may, without the approval of the supporters, acquire a school site that is within the combined separate school zone.

s. 38 (1),
amended

7. Subsection 1 of section 38 of the said Act is amended by striking out "with one-half of the trustees retiring each year" in the third and fourth lines.

s. 39 (1),
amended

8. Subsection 1 of section 39 of the said Act is amended by striking out "one of whom shall retire each year" in the third line and by adding at the end thereof "for a term of two years".

s. 41,
repealed

9. Section 41 of the said Act is repealed.

s. 44 (4) (b, c),
repealed

10.—(1) Clauses *b* and *c* of subsection 4 of section 44 of the said Act are repealed.

s. 44 (4) (e),
amended

(2) Clause *e* of subsection 4 of the said section 44 is amended by striking out "*The Municipal Act* with respect to elections, except with respect to the nomination of candidates" in the first, second and third lines and inserting in lieu thereof "*The Municipal Elections Act, 1972*".

s. 46a,
enacted

11. The said Act is amended by adding thereto the following section:

Residents
other than
supporters
entitled to
vote
1953, c. 119
1972, c. ...

46a. Notwithstanding the provisions of this or any other Act including *The Metropolitan Separate School Board Act, 1953*, a Roman Catholic who is not an owner or tenant as defined in *The Municipal Elections Act, 1972* but who,

- (a) is a Canadian citizen or other British subject;
- (b) is of the full age of eighteen years; and
- (c) resides within a separate school zone,

and who wishes to be a separate school elector at an election may cause his name to be entered on the preliminary list of electors of the polling subdivision in which he resides as a separate school elector, and for such purpose is entitled to be enumerated as such and to have entered opposite his name on the preliminary list of electors for the polling subdivision in which he resides that he is a separate school elector and, where the name of such person appears on the polling list, he shall be deemed to be a separate school elector for the purpose of voting at such election.

12. Section 48 of the said Act is repealed.

s. 48,
repealed

13. Clause *e* of subsection 1 of section 50 of the said Act is repealed.

s. 50 (1) (e),
repealed

14. Section 51 of the said Act is repealed.

s. 51,
repealed

15. Section 52 of the said Act is amended by adding thereto the following subsection:

s. 52,
amended

- (6) Notwithstanding the provisions of subsections 3, 4 and 5, an urban separate school board or a combined separate school board that has passed a resolution under section 44 may require that an election be held to fill a vacancy on the board and, where an election is held, the provisions of *The Municipal Elections Act, 1972* that pertain to an election to fill a vacancy shall apply.

Election
to fill
vacancy

1972, c....

16. Subsection 4 of section 53 of the said Act is repealed and the following substituted therefor:

s. 53 (4),
re-enacted

- (4) Any person who, if he were resident in a separate school zone, would be entitled to be a supporter of a separate school and who is the owner of unoccupied land situate in the separate school zone, may, on or before the 30th day of September in any year, by written notice to the clerk of the municipality in which the land is situate or, where the land is not in a municipality, to the secretaries of the public and separate school boards, direct that all such land in

Rights of
non-residents
to be assessed
for separate
school

the separate school zone shall be assessed for the purposes of the separate school.

s. 60 (5),
amended

17. Subsection 5 of section 60 of the said Act is amended by striking out "assessor" in the first line and inserting in lieu thereof "clerk".

s. 61 (1),
amended

18. Subsection 1 of section 61 of the said Act is amended by striking out "assessment roll that through mistake or inadvertence a ratepayer has been entered on the roll" in the second and third lines and inserting in lieu thereof "list supplied to the clerk under section 23 of *The Assessment Act* that through mistake or inadvertence a ratepayer has been entered on the list".

s. 63 (1),
amended

19. Subsection 1 of section 63 of the said Act is amended by striking out "Where land is assessed against both owner and occupant, or the owner and tenant, the occupant or tenant" in the first and second lines and inserting in lieu thereof "The occupant or tenant of land".

s. 64 (2),
amended

20.—(1) Subsection 2 of section 64 of the said Act is amended by striking out "assessor" in the first line and inserting in lieu thereof "clerk" and by striking out "assessment" in the second line and inserting in lieu thereof "collector's".

s. 64 (5),
amended

(2) Subsection 5 of the said section 64 is amended by striking out "an assessment" in the third and fourth lines and inserting in lieu thereof "a collector's".

s. 64 (6),
amended

(3) Subsection 6 of the said section 64 is amended by striking out "assessor shall in each year, before the return of the assessment roll" in the first and second lines and inserting in lieu thereof "clerk shall in each year, before the final revision of the list supplied to the clerk under section 23 of *The Assessment Act*".

s. 65,
amended

21. Section 65 of the said Act is amended by striking out "and" at the end of clause *c*, by adding "and" at the end of clause *d* and by adding thereto the following clause:

- (e) may provide for expenditures for permanent improvements and for an allocation to a reserve fund provided that, where separate school rates or taxes are collected by a municipal council, the total of expenditures for permanent improvements referred to in subparagraphs i, ii, iii and vii of paragraph 18 of subsection 2 of section 1 of *The Schools Administration Act*, together with any sum allocated to

a reserve fund, shall not exceed a sum calculated at one mill in the dollar upon the total equalized assessment of the property rateable for separate school purposes within the area of jurisdiction of the board in the manner provided for public school purposes in respect of a divisional board of education in clause *d* of subsection 1 of section 31 of *The Secondary Schools and Boards of Education Act*, which clause shall apply *mutatis mutandis*.

22. Subsection 1 of section 66 of the said Act is amended <sup>s. 66 (1),
amended</sup> by inserting after "may" in the first line "in respect of the estimates adopted under section 65".

23. Section 70 of the said Act is amended by striking out <sup>s. 70,
amended</sup> "appearing upon the assessment roll for the current year who have given the notice required by section 53" in the fourth and fifth lines and inserting in lieu thereof "who are separate school supporters".

24. Section 72 of the said Act is repealed. <sup>s. 72,
repealed</sup>

25. Subsection 5 of section 73 of the said Act is repealed <sup>s. 73 (5),
re-enacted</sup> and the following substituted therefor:

(5) Where the debt is not payable by instalments, the <sup>Sinking
fund</sup> board shall levy in each year during the currency of the debt in addition to the amount required to pay the interest falling due in such year a sum such that the aggregate amount so levied during the currency of the debt, with the estimated interest on the investments thereof, will be sufficient to discharge the debt when it becomes payable.

(5a) The sum referred to in subsection 5 shall be deposited <sup>Investment
of fund</sup> with a chartered bank or a trust company that is registered under *The Loan and Trust Corporations Act*, and such sum and any income resulting therefrom shall be invested by such bank or trust company in the manner provided in *The Municipal Act* for sinking funds, and subsections 4 to 9 of section 291 of *The Municipal Act* apply *mutatis mutandis* except that reference therein to the Ministry of Treasury, Economics and Intergovernmental Affairs shall be deemed to be a reference to the Ministry of Education. <sup>R.S.O. 1970,
c. 254
R.S.O. 1970,
c. 284</sup>

26.—(1) Clause *j* of subsection 1 of section 80 of the said <sup>s. 80 (1) (j),
re-enacted</sup> Act is repealed and the following substituted therefor:

(j) "separate school supporter" in respect of an area for which one or more trustees of a county or district

1972, c..... combined separate school board are to be elected, means a separate school elector under *The Municipal Elections Act, 1972* who is qualified to vote at the election of such trustee or trustees in such area.

s. 80 (4),
amended (2) Subsection 4 of the said section 80 is amended by striking out "and the County of York does not include the area municipalities as defined in *The Municipality of Metropolitan Toronto Act*" in the second, third and fourth lines.

s. 80 (7),
amended (3) Subsection 7 of the said section 80 is amended by striking out "the preparation of a voters' list and the election of members of a district combined separate school board under *The Municipal Act* and *The Voters' Lists Act*, which apply *mutatis mutandis*" in the ninth, tenth, eleventh and twelfth lines and inserting in lieu thereof "the election of members of a district combined separate school board under *The Municipal Elections Act, 1972*".

s. 81 (3),
amended **27.** Subsection 3 of section 81 of the said Act is amended by inserting after "21" in the second line "or 22".

ss. 81a, 81b,
enacted **28.** The said Act is amended by adding thereto the following sections:

Meeting to
establish
separate
school in
designated
areas **81a.—(1)** Not fewer than five heads of families, being Roman Catholics and being householders or freeholders resident within one former school section in an area designated by the regulations made under subsection 2 of section 81, may convene a public meeting of persons desiring to establish a separate school zone in such section.

Establishment
of zone (2) Where such a meeting is held, the persons present,

(a) shall elect a chairman and a secretary for the meeting;

(b) may pass a motion to establish a new separate school zone, in which case they shall determine the centre of the zone; and

(c) where such a motion is passed and a centre determined, shall require the chairman to send a copy of the motion to,

(i) the Minister,

(ii) the secretary of the county or district combined separate school board,

(iii) the secretary of the divisional board of education affected, and

(iv) the appropriate municipal assessor,

and the zone so established shall forthwith become a part of the county or district combined separate school zone.

(3) Notwithstanding section 18, no trustees shall be elected at the meeting. Trustees not elected at meeting

81b.—(1) Where a school site that is acquired by a county or district combined separate school board is not within the county or district combined separate school zone and the board operates a separate school on such site, a separate school zone having its centre as provided in subsection 2 of section 54 is deemed to have been established under subsection 2 of section 81a on the date on which final approval in respect of the construction or purchase of the school is given by the Minister for purposes of legislative grant. Zone deemed formed

(2) A separate school board under this Part may, with the approval of the Minister, acquire by purchase or lease a school site that is outside the area designated in respect of such board by regulation made under subsection 2 of section 81, and may operate thereon a separate school, but a separate school board shall not expropriate any such site. School outside designated area

(3) Notwithstanding section 54, the operation of a separate school on a school site acquired under subsection 2 does not, *ipso facto*, establish a separate school zone with a centre at such site. Zone not established

29. Subsection 2 of section 85 of the said Act is repealed and the following substituted therefor: s. 85 (2), re-enacted

(2) A county combined separate school board that has jurisdiction in an area that includes two or more counties, or one county and a defined city as defined in subsection 1 of section 27 of *The Secondary Schools and Boards of Education Act*, is a corporation by the name of "The..... County Roman Catholic Separate School Board" (inserting the names of the counties, the name of the city and of the county or a name selected by the board and approved by the Minister). Name of county combined board
R.S.O. 1970, c. 425

s. 90 (1) (a),
re-enacted

30.—(1) Clause *a* of subsection 1 of section 90 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 64, subsection 2, is repealed and the following substituted therefor:

- (a) “equalized residential and farm assessment” means the residential and farm assessment referred to in clause *b*, as adjusted by the assessment equalization factor applicable thereto that is provided by the Minister.

s. 90,
amended

(2) The said section 90 is amended by adding thereto the following subsections:

Distribution
of members
within
combined
municipalities

- (8a) Where two or more county municipalities that are not in a regional municipality are combined under subsection 8 for the election of two or more trustees and one of the combined municipalities has a population in excess of 75,000, the clerks of such combined municipalities may, before the 15th day of September in any year in which a determination is made under subsection 8, determine that a portion of a county municipality that is so combined be attached to one or more of the other county municipalities in the combination of municipalities for the election of one or two trustees and, where the clerks of such combined municipalities so determine,

- (a) the number of trustees to be elected in the combined municipalities shall be apportioned among the combined areas formed under this subsection and the remainder, if any, of the county municipality, as nearly as is practicable in the proportion that the equalized residential and farm assessment of the property rateable for separate school purposes in each such combined area and in the remainder, if any, of the county municipality, bears to the total equalized residential and farm assessment of the property rateable for separate school purposes in the combined municipalities; and

- (b) where the remainder of the county municipality is to be represented by two or more trustees, subsections 17 and 18 shall apply *mutatis mutandis* in respect of such remainder.

Appeal from
determination
under subs. 8a

- (8b) Where the determination made under subsection 8a apportions to a combined area or to the remainder

of a county municipality a percentage of the total number of trustees to be elected in the combined municipalities as determined under subsection 8 that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for separate school purposes in the combined area or in the remainder of the county municipality, as the case may be, is of the total equalized residential and farm assessment of the property rateable for separate school purposes in the combined municipalities, the council of a municipality all or part of which is in the combined area or part of which forms such remainder, as the case may be, may, within fifteen days after notice of such determination has been sent, appeal the determination to the judge who shall either reapportion the number of trustees in accordance with clause *a* of subsection 8*a* or, where he determines that the determination was made in accordance with such clause, confirm the determination, and his decision is final.

(3) Subsection 10 of the said section 90 as amended by <sup>s. 90 (10),
amended</sup> inserting after "the" where it occurs the second time in the fifth line "county".

(4) Subsection 19 of the said section 90 is repealed and <sup>s. 90 (19),
re-enacted</sup> the following substituted therefor:

(19) Where two or more county or district municipalities are combined for the election of one or more trustees, <sup>Elections
in combined
areas</sup> such trustee or trustees shall, except where a determination is made under subsection 8*a*, be elected by a general vote of the separate school supporters of the combined municipalities, and where, under subsection 8*a* or 8*b*, a portion of a county municipality is attached to one or more other county municipalities for the election of one or two trustees, such trustee or trustees shall be elected by a general vote of the separate school supporters of such combined area, and

(*a*) the nominations in each case shall be conducted by the returning officer of the municipality having the greatest equalized residential and farm assessment for separate school purposes of any municipality all of which is in the area for which the trustee or trustees are to be elected, who shall send to the clerk of each municipality concerned, by registered mail

within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

- (b) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause *a*, who shall prepare the final summary and announce the vote.

s. 90 (21),
re-enacted,
s. 90 (22-26),
repealed

(5) Subsections 21 to 26 of the said section 90 are repealed and the following substituted therefor:

Elections

- (21) The election of members of a county or district combined separate school board shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality.

s. 91,
amended

31. Section 91 of the said Act is amended by adding thereto the following subsection:

Election
to fill
vacancy

- (6) Notwithstanding subsection 5, a separate school board under this Part may require that an election be held to fill a vacancy on the board and, where an election is held, the provisions of *The Municipal Elections Act, 1972* that pertain to an election to fill a vacancy shall apply.

1972, c.

s. 93 (1),
amended

32.—(1) Subsection 1 of section 93 of the said Act is amended by adding at the end thereof “for a supervisory officer”.

s. 93 (2),
amended

(2) Subsection 2 of the said section 93 is amended by adding at the end thereof “for a supervisory officer”.

Commence-
ment

33.—(1) This Act, except section 21, comes into force on the day it receives Royal Assent.

Idem

(2) Section 21 comes into force on the 1st day of January, 1973.

Short title

34. This Act may be cited as *The Separate Schools Amendment Act, 1972*.

An Act to amend
The Separate Schools Act

1st Reading

May 15th, 1972

2nd Reading

May 25th, 1972

3rd Reading

June 21st, 1972

THE HON. T. L. WELLS
Minister of Education
